The following-named officers of the Marine Corps for temporary appointment to the grade of first lieutenant:

Jack R. Christensen
Lucion N. Sowell, Jr.

The following-named officers of the Marine Corps for temporary appointment to the grade of second lieutenant:

Donald R. Baum	James R. Johnson
Max Bearden	Harry P. Jones
Kinsman G. Boso	William R. Kueker
James D. Chandler	Raymond Labas
Roger U. Chaput	Marion E. Lewis
George W. Colburn	Jacques B. Loraine, Jr.
George D. Cox	Joseph M. Magaldi, Jr.
Wallace E. Fogo	Horace L. Mann
Harold J. Ford, Jr.	Charles A. Miller
Ralph B. Fuentes	Van A. Norman
Joseph G. Gardiner	Richard L. Prather
Ralph G. Getman	Herbert J. L. Reid
Arthur L. Graves	Charley Robinson
Ralph N. Hardin	Anthony V. Rocha
Donald L. Harris	William J. Shetzer
William J. Hartmeier	Jerome E. Shephens
Frederick R. Hasler	Jack R. Taylor
Thomas W. Hendrickson	Donald J. Thomas
Gerald J. Hepp	David C. Turner
Vernon J. Hicks	Robert G. Unger
John E. Holland	Bethel A. Vass
Ralph E. Holler	John H. Webb, Jr.
Don C. Hunter, Jr.	

The following-named Reserve officers to be second lieutenants in the Marine Corps, subject to qualification therefor as provided by law:

Roger J. Bartels	John E. Mead
Edward H. Berger	Richard M. Myers
Richard E. Bourne	David J. Naugle
Joseph P. Brower	Bert W. Peterka
Thomas K. Burk, Jr.	James S. Phillips
Thomas D. Burnette	Raymond R. Powell
Ellsworth P. Coleman	Daniel Prudhomme
Karl F. Christman	Harold P. Reiland
Jack L. Dewell	Francis N. Riney
Arthur A. Dittmeier	George M. Shiffler
William Drebushenko	Allan J. Spence
Ronald M. Giannotti	Henry G. Stalling, Jr.
Herbert M. Gradd	Robert W. Topping
Paul R. Jones, Jr.	John J. Tolnay
Robert E. Jones	Edward R. Wagner, Jr.
Willard T. Layton	Allen R. Walker
Charles P. Lindsley	Billy E. Wilson
Eugene C. McCarthy	Paul A. Wilson, Jr.

The following-named Women Reserve officers to be second lieutenants in the Marine Corps, subject to qualification therefor as provided by law:

Ann C. Anderton	Natalie H. Lowell
Claudette Y. Berube	Marilyn A. Maines
Doris J. Burke	Mary T. Malloy
Mary J. Callahan	Audra D. Marshall
Beverly A. Cearley	Patricia A. McDonough
Martha A. Cox	Aurora M. Mondo
Katharine M. Donohoe	Margaret R. Pruett
Elizabeth M. Faas	Elisabeth M. Strand
Jane P. Grundy	Jane L. Wallis
Ada J. Harris	Antoinette S. Willard
Patricia Kuehn	Catherine Yoyos
Florence E. Land	

IN THE ARMY

The following-named officers for appointment to the position indicated and for appointment as lieutenant general in the Army of the United States under the provisions of sections 504 and 515 of the Officer Personnel Act of 1947:

Maj. Gen. Thomas Wade Herren, O7430, United States Army, to be commanding general, First Army, and senior United States Army member, Military Staff Committee, United Nations, with the rank of lieutenant general.

Maj. Gen. Claude Birkett Ferenbaugh, O12479, United States Army, to be deputy commanding general, Army Forces, Far East, with the rank of lieutenant general.

The following-named officers for temporary appointment in the Army of the United States to the grades indicated under the provisions of subsection 515 (c) of the Officer Personnel Act of 1947:

To be major generals

Brig. Gen. Frank Otto Bowman, O12090, United States Army.

Brig. Gen. Louis Watkins Prentiss, O14672, United States Army.

Brig. Gen. Kenner Fischer Hertford, O15120, United States Army.

To be brigadier generals

Col. Richard Joseph Werner, O29107, United States Army.

Col. Norman Hayden Vissering, O41603, United States Army.

Col. Edgar Thomas Conley, Jr., O17665, United States Army.

Col. William Richard Frederick, Jr., O29388, United States Army.

Col. Briard Poland Johnson, O29393, United States Army.

Col. Andrew Thomas McAnsh, O38667, United States Army.

Col. Philip Campbell Wehle, O18067, United States Army.

Col. Isaac Sewell Morris, O18806, United States Army.

IN THE AIR FORCE

Brig. Gen. Karl Truesdell, Jr., 1023A (colonel, Regular Air Force), United States Air Force, for temporary appointment as major general in the United States Air Force, under the provisions of section 515, Officer Personnel Act of 1947.

SENATE

WEDNESDAY, DECEMBER 1, 1954

(Legislative day of Monday, November 29, 1954)

The Senate met at 9:30 a. m., on the expiration of the recess.

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

O Thou source of our strength and hope, humbly we come, trusting not in our feeble hold of Thee, but rather in Thy mighty grasp of us. Our minds are puzzled and confused—full of doubt and questioning; wickedness seems so rampant and triumphant, goodness so rare and spoiled by lurking evil.

Give us, we beseech Thee, the faith which in the darkness still believes in the dawn. Out of dense darkness has leaped the light of this new day, touching into loveliness the fields, the hills, and the sea, filtering into the deepest woods—into the darkest homes. Come to us, Thou Light of the World. May we become sure of Thee as men who watch through a long night are confident of the dawning. Scatter our doubtings. Fill us with life anew. Send us forth as sons of the morning to bring Thy light to every shadowed area of human relationships. We ask it in the dear Redeemer's name. Amen.

THE JOURNAL

On request of Mr. KNOWLAND, and by unanimous consent, the reading of the Journal of the proceedings of Tuesday, November 30, 1954, was dispensed with.

CREDENTIALS

The VICE PRESIDENT. There are on the desk the credentials of the Senator-elect from Arkansas [Mr. MCCLELLAN] for the term beginning January 3, 1955, which, without objection, will be received, placed on file, and printed in the RECORD.

There being no objection, the credentials were ordered to be placed on file and to be printed in the RECORD, as follows:

PROCLAMATION

STATE OF ARKANSAS,
EXECUTIVE DEPARTMENT.

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 2d day of November 1954, JOHN L. MCCLELLAN was duly chosen by the qualified electors of the State of Arkansas a Senator from said State to represent said State in the Senate of the United States for the term of 6 years, beginning on the 3d day of January, 1955.

Witness: His Excellency our Governor, Francis Cherry, and our seal hereto affixed at Little Rock, this 15th day of November, in the year of our Lord 1954.

FRANCIS CHERRY.

By the Governor:

C. G. HALL,
Secretary of State.

TRANSACTION OF ROUTINE BUSINESS

Mr. KNOWLAND. Mr. President, under the order previously entered, the Senate is about to have its customary morning hour for the transaction of routine business, under the usual 2-minute limitation. Following the transaction of routine business I shall suggest the absence of a quorum.

The VICE PRESIDENT. Routine business is now in order.

RETURN OF CERTAIN PAPERS BY COMMITTEE ON THE DISTRICT OF COLUMBIA

Mr. CASE. Mr. President, I ask unanimous consent that an order may be issued relative to certain papers which were obtained by the Subcommittee on Crime and Law Enforcement of the Committee on the District of Columbia in 1952. These papers and documents were produced by Mr. William L. Taylor, and he has written me as chairman of the District of Columbia Committee, asking that they be released from the custody of the committee. I am informed that they may be released only by an order of the Senate.

I have consulted with the ranking minority member of the committee and he informs me that he has no objection to this procedure.

I submit the order, and ask for its present consideration.

There being no objection, the order was considered and agreed to, as follows:

Ordered, That the Senate Committee on the District of Columbia be, and is hereby, authorized to return to Mr. William L. Taylor, 3301 North George Mason Drive, Arlington, Va., the following documents which were produced by the said William L. Taylor in 1952 to the subcommittee of the Committee

on the District of Columbia, investigating crime and law enforcement:

(1) Three hundred and fifty canceled checks of William L. Taylor, the Citizens Bank of Takoma Park, covering the period November 15, 1950, to January 25, 1952, inclusive.

(2) Fifteen bank statements, the Citizens Bank of Takoma Park, showing the account of William L. and Eleanor V. Taylor, from October 14, 1950, through January 30, 1952, inclusive.

(3) Six United States individual income-tax returns as follows:

(a) Return of William Leonard Taylor for the year 1946.

(b) Return of William L. and Mary E. Taylor for the year 1947.

(c) Return of William L. Taylor for the year 1948.

(d) Return of William L. Taylor for the year 1949.

(e) Return of William L. and Eleanor V. Taylor for the year 1950.

(f) Return of William L. and Eleanor V. Taylor for the year 1951.

(4) Thirty-four mail-deposit receipts of William L. and Eleanor V. Taylor, the Citizens Bank of Takoma Park.

(5) Three deposit slips, the Citizens Bank of Takoma Park, of William L. or Eleanor V. Taylor.

(6) One receipt for collection, the Citizens Bank of Takoma Park, of William L. Taylor.

(7) Two correction deposit slips, the Citizens Bank of Takoma Park, one to William L. or Eleanor V. Taylor, and one to William L. Taylor.

(8) One 27-page financial questionnaire of William Leonard Taylor.

THE IMPRISONMENT OF OUR CITIZENS IN RED CHINA

Mr. KNOWLAND. Mr. President, I desire to read into the RECORD a telegram which I have received from the Air Force Association. It reads as follows:

WASHINGTON, D. C., *November 26, 1954.*

Hon. WILLIAM F. KNOWLAND,
United States Senate,
Washington, D. C.:

In behalf of the Air Force Association, I have sent today the following telegram to President Eisenhower, with copies to the press, all Members of Congress, the governors of each State, and the Secretaries of State, Defense, and Air Force. Text follows:

"The Air Force Association has been deeply concerned about United States Air Force personnel and other Americans still held as prisoners by Red China. As evidence of this concern the association printed in the November issue of Air Force Magazine, its official journal, a special report including pictures on the 11 airmen who have in the last few days been given long and severe prison sentences by Red China. We have been informed through sources which we believe to be correct that these men were shot down over Korea, not Red China. The motto of a famous Air Force fighter group is 'We take care of our own.' The Air Force Association believes that this is an appropriate motto for our Nation at this time. We know you share our feeling that these men must be released. This message is to assure you that the Air Force Association stands behind whatever action, no matter how strong, you may take to obtain the release of every American held in the prisons of Red China. We believe time is of the essence."

We respectfully enlist your support in efforts to obtain the release of these Americans.

JOHN R. ALISON,
President, Air Force Association.

I ask unanimous consent that my reply to Mr. Alison be printed in the RECORD at this point as a part of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NOVEMBER 29, 1954.

Mr. JOHN R. ALISON,
President, Air Force Association,
Washington, D. C.

DEAR MR. ALISON: Your telegram of November 26 has been received, and I appreciate having your constructive comments.

I fully agree with you that something must be done to protect the men wearing the American uniform who find themselves in Communist prisons contrary to the armistice agreement and the decent conduct of nations under international law.

It has been my belief for a long time that merely sending another note will not produce results. If these Americans who have just been sent to prison and others who are being illegally held are not immediately released I believe that the note should be followed up by a complete blockade of the Chinese Communist coast to see to it that not a single vessel of any nationality enters or leaves a Chinese port until all of the Americans have been freed.

With best regards, I remain,

Sincerely yours,

WILLIAM F. KNOWLAND.

SENATOR ROBERT C. HENDRICKSON, OF NEW JERSEY

Mr. SMITH of New Jersey. Mr. President, last August, because of my trip to the Far East with Secretary of State Dulles, I left the Senate 1 day before the recess was taken. Due to this fact, I was unable to be in the Senate on the afternoon when many of my colleagues, led by the Senator from Maine [Mrs. SMITH], paid well-deserved tributes to my colleague the junior Senator from New Jersey [Mr. HENDRICKSON], who, to the regret of all of us, will not be a Member of the Senate next year.

Before the final adjournment of the Senate I desire to say a few words with regard to the junior Senator from my State.

Prior to coming to the Senate in 1948 Senator HENDRICKSON had been very active in New Jersey politics, as State senator and later as Republican majority leader and president of the State senate. In 1940 he was the Republican nominee for Governor. In 1942, and again in 1946, he was elected State treasurer.

The whole field of Federal-State operations in fiscal matters has long been dear to his heart, and in connection with this interest Senator HENDRICKSON served as member, and later as chairman, of the board of managers of the Council of State Governments. As a Member of the Senate he was greatly instrumental, along with the late Senator Taft and the distinguished senior Senator from Michigan [Mr. FERGUSON], in setting up the Commission on Intergovernmental Relations, of which he is now a member.

Senator HENDRICKSON served his country in both World Wars. In 1918 he enlisted as a private and saw action in France. He was awarded the Medal of Verdun and other citations for his service.

In 1943 he again volunteered his services and was assigned to the American Military Government in North Africa, upper Austria, and Italy. As senior legal officer AMG with the Fifth Army, he was with one of the first combat units to enter Rome. In 1944 he was promoted to the rank of lieutenant colonel. He returned to civilian life in 1946. He received the World War II medal, European-African Middle Eastern Theater Service Medal with four bronze stars, and several other awards for his efforts.

Senator HENDRICKSON has long been an active member of the American Legion, and as a lawyer has been a member of the bar of the State of New Jersey and active in the Gloucester County, N. J., Bar Association.

Senator HENDRICKSON has a distinguished ancestry, as is illustrated by the fact that he is a member of the Society of Cincinnati, one of the oldest, if not the oldest, of our patriotic societies.

In his 6 years in the Senate, Senator HENDRICKSON has served with distinction on many important committees. For a time he was a member of the Rules and Administration Committee and of its Subcommittee on Privileges and Elections. As a member of the Armed Services Committee he played an important role in the ammunition-shortage investigation. He is a member of the Republican policy committee, the Select Committee on Small Business, and has served tirelessly and conscientiously as chairman of the Republican calendar committee.

As a member of the Judiciary Committee Senator HENDRICKSON was the author of Senate Resolution 89, 83d Congress, 1st session, authorizing an investigation of juvenile delinquency in the United States. On August 4, 1953, he was appointed chairman of a subcommittee to carry out the terms of the resolution.

Rarely, in my opinion, has a Senator conducted such a complete and valuable investigation. The subcommittee set out on a factfinding tour to determine the extent, causes, and implications of juvenile delinquency. For Senator HENDRICKSON, this has been a labor of love. The importance of the children of America, the need for better public understanding of the great problem of juvenile delinquency, and the deep desire to make this Nation a better place in which to live, have been the motivating convictions behind the fine work which has been done under Senator HENDRICKSON'S initiative.

Obviously the role of the Congress in dealing with the problem of eliminating juvenile delinquency has just begun. It is a matter of deep regret to all of us that the man responsible for undertaking this work will not be here in future years to continue this fight. His leadership and example will be a great inspiration to those who follow him.

In closing these few remarks I wish to emphasize the personal side of the very happy relationship of Mrs. Smith and myself with Senator and Mrs. Hendrickson. We have been close friends for many years during our joint endeavors to

improve political conditions in our home State of New Jersey. I watched Senator HENDRICKSON grow from a member of the State legislature through the important State offices I have mentioned, until at last in 1948 he became my colleague here in the United States Senate. Our mutual relations have been those of respect and deep affection, and it was a great personal regret to me that he felt it necessary to make the personal sacrifice of not running for reelection to continue his career in the United States Senate.

He is going to a new work of critical importance and responsibility in our troubled world.

I am confident that all of his colleagues in the United States Senate, without exception, join me as we close the 83d Congress, in wishing him and his charming wife Godspeed and deserved success in their new dedication to the service of their country.

ADDRESS BY FIELD MARSHAL THE VISCOUNT MONTGOMERY

Mr. GOLDWATER. Mr. President, on November 29, 1954, Field Marshal the Viscount Montgomery of Alamein addressed the California Institute of Technology. He made one of the most provocative speeches it has been my pleasure to read in some time. Because of the importance of the subject discussed, I ask unanimous consent that this speech be incorporated in the body of the RECORD following my remarks. Field Marshal Montgomery was a great proponent of ground forces who now recognizes that future wars will be fought in the air. He discusses his reasons for going over to that thesis, and he further outlines his theories of naval warfare. I think the address should be read by every Member of the Senate because of the possibility of this subject being discussed more fully in the coming session of the Congress.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE POSSIBILITY OF WAR

(Address of Field Marshal Montgomery to California Institute of Technology, Los Angeles, November 29, 1954)

The world is split in two and the aims of the two parts, East and West, are in direct conflict. In some areas the conflict is violent and has led to fighting. These local wars are part of what is called the cold war. A better name would be the cold peace.

History records that from time to time evil men arise, seize power, and attempt to exert their will by force. Hitler was such a man. Therefore the possibility of the cold war turning to a hot war is always with us, and we must be prepared accordingly.

Both are global, the cold war and the hot war.

In trying to win the cold war one side or the other may miscalculate and bring on a hot war, though neither side wanted it.

So once again, war is always a possibility.

But as we advance further along the road of development of atomic and thermonuclear weapons, guided missiles, and ballistic rockets, it will become increasingly clear that a hot war will be mutual suicide for the contestants. Therefore the great problem regarding the cold war now in progress is how to win it without precipitating a hot war.

Local wars call for the use of conventional weapons, and for a readiness to use new weapons if the circumstances demand it.

It is obvious that the use of atomic and thermonuclear weapons is going to have a profound effect on the conduct of war, on weapon systems, on strategical and tactical conceptions, and therefore on the organization of forces.

I want to make it absolutely clear that we at Supreme Headquarters Allied Powers, Europe, are basing all our operational planning on using atomic and thermonuclear weapons in our defense. With us it is no longer "They may possibly be used." It is very definitely "They will be used, if we are attacked."

The reason for this action is that we cannot match the strength that could be brought against us unless we use nuclear weapons; and our political chiefs have never shown any great enthusiasm in giving us the number to be able to do this without using such weapons.

It all calls for a certain reorganization of our forces, and in our strategy. In fact, we have reached the point of no return as regards the use of nuclear weapons in a hot war.

Now let us consider a future global hot war.

THE FUTURE GLOBAL WAR

In our thinking ahead we need some realistic foundation.

Let us therefore consider a war between two powerful groups of nations, and let us call them East and West. You can make any grouping within this broad statement that you think suitable. I would suggest we include the NATO nations in the West.

We will assume that the West has at present a superiority in atomic and thermonuclear weapons together with the means of delivery, but that as the years pass that margin superiority is likely to decline.

GENERAL APPROACH

So far as we can see today we are not justified in depending on air bombardment alone, even with nuclear weapons, to bring a world war to a successful conclusion; still less a local war or disturbance. Wars today can be won only by fighting, and, in a hot war, fighting will continue in the air, at sea, and on land until one side loses the will to fight on.

On the other hand, the skillful employment and accurate application of superior nuclear firepower in combination with the operations of streamlined land forces, can be a decisive factor in the battle on land. The problem will be how to force the enemy to concentrate his armed forces sufficiently to offer a worthwhile nuclear target, without exposing our own forces to destruction by the enemy's nuclear attack.

THE DELIBERATELY PLANNED WORLD HOT WAR

I suggest that such a war will have three phases.

First phase: A worldwide struggle for mastery in the air and of the oceans. It will be vital during this phase to prevent enemy land forces overrunning and neutralizing western bases and territories.

Second phase: The destruction of the remaining enemy land forces.

Third phase: The bargaining phase, when the enemy's homeland and all it contains is at the mercy of the Western airpower. We will then carry the air attack to the point where the enemy accepts our terms.

The second and third phases may be concurrent.

Against the background of this overall strategy, let us consider the war under three headings:

The War in the Air.

The War at Sea.

The War on Land.

THE WAR IN THE AIR

It is clear from the strategy I have outlined that the dominant factor in future war will be airpower. And that is my very firm belief. But like so many things we do we too often pay only lip service to this great truth.

The greatest asset of airpower is its flexibility. The main factors in determining the degree of flexibility are the methods of command and control, the range of aircraft, and the mobility of supporting equipment.

Flexibility and centralized control of all the air forces in a theater of war are vital to success.

But the West has sacrificed much of its flexibility by basing the air command organization on the requirements of direct support of the land forces, whereas it should be based on the organization necessary to gain the greatest measure of control in the air.

Airpower is indivisible. If you split it up into compartments you merely pull it to pieces and destroy its greatest asset, its flexibility. If we lose the war in the air, we lose the whole war and lose it quickly.

We will never win the war in the air with the organization for air command and control that we have at present. The present organization is unworthy of a group of nations who claim to have some knowledge of war.

Now let us have a look at the war in the air.

If we can maintain the ability to start a tremendous nuclear bombardment of the East the moment we are attacked, they cannot afford to do nothing about it.

It must affect the employment of their air forces.

It must force them to devote a considerable effort of their long-range air forces and nuclear weapons to attempt to hit our strategical air forces and the installations on which they depend. It must force them to expend effort on air defense, no easy problem for them.

Against this background, I suggest there are three successive stages to consider in the war in the air.

THE FIRST STAGE

This stage would be if war comes in the near future.

In this period, as I see it, both sides will rely principally on piloted aircraft in both the strategical and tactical fields. I see no sign, within this period, of either side being able to create an air defense system which could greatly affect the present balance in favor of the offensive in the air.

The results of this great battle for mastery in the air will have a tremendous effect on the whole war, and we must win it. But we cannot afford to rely on air resources which depend on mobilization. The air forces we need, together with all the means necessary to keep them operational, must exist in peacetime. And by centralizing Air Command on the highest possible level we must restore to the air forces the flexibility they have largely lost.

THE SECOND STAGE

In the not-too-far-distant future, the East may create a sufficient stock of atomic weapons, and the long-range means of delivering them, effective enough for them to strike at the outbreak of war a devastating blow at our means of delivering offensive airpower. At this stage, as far as I can see, both sides will still be relying principally on piloted aircraft, both for offense and defense.

Before this period arrives, it will be of tremendous importance that we should have developed, and have in being, a highly effective global early warning system, together with the best air defense that the scientists can give us, in order to prevent our

offensive airpower being crippled from the start by a surprise attack, and to minimize the effect of such an attack.

THE THIRD STAGE

Later on still the East may have developed means of delivering their weapons with accuracy, both short-range and long-range, which do not rely on piloted aircraft, e. g., the ballistic missile.

Our ability to counter that threat by both offensive and defensive measures will be much reduced, because the targets will be far less vulnerable—whether they are launching sites, or the weapons themselves actually in the air.

We must ask ourselves seriously what, at that stage, are to be the targets of our offensive airpower.

Will it then be true that offensive operations by our aircraft or missiles will directly affect the enemy's ability to deliver his weapons against us.

I do not see the airplane disappearing altogether.

In the tactical field I am sure that there will always be tasks for piloted aircraft in support of land and naval forces. The enemy's aircraft used for these purposes, and their bases, will remain an important target for our aircraft and missiles.

CONCLUSIONS: THE WAR IN THE AIR

What are the conclusions?

Now that we have solved the problem of endurance in the air, and an aircraft can remain in the skies for prolonged periods and in all weathers, airpower is becoming the decisive factor in warfare. We must therefore get organized accordingly. What we must do now is to organize the command and control of our air forces so as to retain the greatest degree of flexibility; centralizing command in the highest commander who can effectively exercise that command, so that he can wield the available air forces in a theater of war as one mighty weapon.

If we are attacked, we must set in motion an immediate air offensive on the largest possible scale, directed at the enemy's air forces and at his homeland. The means of delivering an immediate air offensive must exist in peace.

We must develop an effective, and global, early warning system in order to have some chance of being able to take the offensive in the air should we be attacked. And we must study air defense urgently; I will say something on this subject later on. It is vital that our air forces should be able to absorb nuclear attack, and survive to strike back. The principle of dispersion must be explored from every angle. We must get away from the enormous concrete runways of today, and develop aircraft which can land and take off from small PSP airstrips dispersed over the countryside. In this respect vertical lift aircraft have very great possibilities.

THE WAR AT SEA

Now let us discuss the war at sea.

As things stand today, it is my view that the West could not win if it lost control of the Atlantic.

If we cannot deploy in Europe the power of the American Continent, Europe could fall.

In the open seas the great threats are the submarine and air attack. In the narrow waters, the threat of the mine must be added and attack by aircraft will be more effective. Naval forces of today require air support in the same way as do land forces. It is essential in the conditions of today that navies called on to operate in the great oceans should have their own air forces.

The navies of those nations whose work lies entirely in narrrow seas, such as the Mediterranean, or in European waters, are in a different situation; in my view, such navies do not need their own air forces. What I have said about the war at sea is applicable only for today and for the next few years. But the more one considers the future, the more the problem of control of the seas becomes difficult to foresee. The question to be faced and decided is:

"In the future, will the seas be controlled from the sea or from the air?"

When one considers the range and power of aircraft of the future, and the progress that is likely in radar and electronics, I am personally forced to the conclusion that the time will come when the major factor in the control of the seas will be air power.

I consider that the day of the large warship on the surface of the sea is over. The emphasis in the future is likely to be on the smaller type of vessel and on underwater craft.

If it is true that the seas will in the future be controlled mainly from the air, then it is for consideration whether this control would not be best exercised by national air forces and not by naval forces. If this is the case, then navies will not in the future require their own air forces. That time has not yet come. But in my view it will come eventually. If this is true, then we should at once stop building any more aircraft carriers, because they are very expensive and will not produce a dividend. What it amounts to is that new weapons have not yet rendered the aircraft-carrier obsolete, but they will do so in the future. And I see control of the seas eventually passing to air forces.

THE WAR ON LAND

To fight successfully on land we need the following four essentials, as a minimum—

First. We must have first-class forces "in being" in peace time, up to strength and ready at all times to act as our shield without any mobilization procedure. These forces must be trained and equipped to the highest pitch: mobile, hard-hitting, offensive troops of magnificent morale, very highly disciplined, under young and active commanders. These are the troops and the commanders who have got to stand firm in the face of the horrors and terrors of the opening clashes of an atomic war, and they will stand firm only if they are highly trained and highly disciplined.

Second. We need reserve forces, well organized, capable of being mobilized in echelons, and each echelon receiving sufficient training in peace to ensure it is fit to fight at the time it is needed.

Third. Our forces, active and reserve, must be backed by a sound logistic and movement organization, which should exist in peace to the degree necessary to ensure success in the opening weeks of war.

Fourth. We must have a sound civil defense organization in each national territory.

The whole philosophy underlying these needs in land forces is, that the active forces "in being" in peace will make it impossible for the East to launch an attack successfully without a preparatory buildup of their forces, which we would know about; it would be difficult for the enemy to surprise us.

Our active forces will prevent the Eastern forces from reaching our vital areas, while we are assembling and moving forward our reserve forces.

Let us have a last look at the war in the air, at sea, and on land.

THE WAR IN THE AIR

We have got to win the war in the air.

We will not win it unless the air forces are allowed to regain their flexibility and unity, and unless air command is organized accordingly. It is vital that this matter be tackled at once on the highest political level.

We must maintain in peace the ability to launch an immediate offensive in the air against anyone who attacks us.

The West is vulnerable to nuclear attack. Great offensive power is wasted unless it is married to defensive power and can be launched from a secure base. As time passes and the offensive capability between East and West levels out, the advantage will go to that side which has the greater defensive strength, which can protect itself against attack, and can survive to strike back.

There is at the present time no sure defense against the airplane or ballistic rocket. Indeed, so far as we can see today, trying to get a secure defense against air attack is rather like trying to keep the tide back on the seashore with a picket fence. This situation must not be allowed to continue.

The best scientific brains we possess should be gathered in to help in the task, working in close cooperation with air forces. I say "air forces" because I hold the view that air defense should be organized and handled by air forces, and that antiaircraft commands should be handed over to that service.

THE WAR AT SEA

Today the navies must handle this war. They must be given the minimum means to insure control of the seas and of the approaches to essential ports and no more. It is essential that they should not dissipate those means on tasks which do not affect the war at sea. But we must not be hidebound by past traditions. I give it as my opinion that the time will come when the seas will be controlled from the air. If this is true, the future must be planned and organized accordingly.

THE WAR ON LAND

In the organization of land forces the emphasis must be on strategical and tactical mobility and on simplicity of weapons systems. We need divisions that can be moved rapidly by air; this will necessitate suitable aircraft for the purpose.

To gain full advantage of the immense firepower that nuclear weapons have provided, and to avoid destruction by enemy nuclear attack, armies must develop a more lively and opportunist type of battle leader than exists at present in both junior and senior ranks. Such a leader must have the imagination, the daring, and the resource to seize fleeting local opportunities; he must be trained to act independently and immediately within the framework of a general plan rather than on precise and detailed orders or only after reference to a superior.

I should add that these qualities in a leader apply equally to navies and air forces.

Land forces must become less dependent on roads and more capable of cross-country movement.

The supply system of land armies must be streamlined. They must become much less dependent on fixed lines of supply, such as roads and railways, which involve frequent transfers of load.

Armies need a simple line of supply based on an airlift. Today, when supply lines are cut by enemy action, armies cease to operate efficiently. The system of the future should provide air supply to forward maintenance areas from base depots many miles to the rear and well dispersed.

The airlift from base depots to forward maintenance areas must be by some type of "vertical lift" aircraft, which can take off and land vertically, and which fly at a fast speed like an ordinary aircraft in level flight. The air supply must be capable of being maintained in all weathers and by day and night.

I see base depots being replenished by large freight-carrying aircraft which can land and take off from PSP airstrips. There is clearly a tremendous future for "vertical lift" aircraft. It is my opinion that this vast air organization for the land armies will be best handled by the air forces, since you cannot separate an air-transport system from air operations.

Such a supply organization would do away with the vast array of units and headquarters which today constitute the enormous tail of a modern army. It would be the first step in restoring to armies the "freedom of

the countryside" and the tactical mobility that have so largely disappeared. By simplifying the tail we shall get more bite in the teeth.

The armies of today have to a large extent lost their mobility; they are becoming road-bound and are weighed down by a gigantic administrative setup in and around them. Staffs are far too big; the amount of paper that is required to produce even quite small action is terrific. We seem to have lost the art of command, other than by paper. No ordinary man can read half the paper that is in circulation; I doubt if the other half is worth reading.

THE GIST OF THE WHOLE MATTER

We stand today at the crossroads, not knowing which turning to make.

Absolute defense against air attack will be impossible in the future. A deterrent, the means with which to hit back instantly and to give more than you receive, is the surest way to make an aggressor think twice before he attacks. The West must build up such a deterrent, capable of being delivered immediately by air forces which must be in being in peacetime.

It is then vitally necessary to guard against a surprise attack, and against treachery, and to be able to hold such an attack long enough to enable nations to spring to arms behind the shield and mobilize their collective strength.

The Western nations must also retain the ability to absorb atomic and thermonuclear attack, and must ensure that their means of instant retaliation are not compromised by surprise or treachery.

Political, financial, and economic considerations will make it impossible for armed forces to have all they want, or do all they would like. It will become more important than ever to concentrate on essentials and to have our priorities right.

In the scientific age into which we are moving, which is also an age of ever-increasing costs, governments have got to insure that their armed forces and security measures are built up within a framework of economic realities and against a background of sound interservice responsibilities.

BALANCE OF FORCES

If what I say has validity, then the priorities will call for the following:

(a) Bigger air forces.

(b) Smaller and more immediately ready regular armies with great strategical and tactical mobility. Better organized and more efficient reserve armies.

(c) Smaller navies.

(d) The organization of the three fighting services based on more atomic and thermonuclear power, and less manpower.

(e) A civil-defense organization which exists in peace to the degree necessary to insure it can operate in top gear in an emergency. It must be understood in this respect that while great destruction may be caused at the point of burst of a nuclear weapon, tremendous saving of life and property will be possible on the fringes.

CONCLUSION

I would like to put some points to you in conclusion.

First. We are living today in an age of great scientific progress. The possibilities that lie ahead are almost limitless. If ever war should come again to this distracted world, which God forbid, the key to our success will lie in your hands. I would put forward the following points for your consideration.

The scientific advances of today in civilian life, and in the realm of defense, are creating a demand for highly trained technicians and engineers in ever-increasing numbers. Most nations are falling behind more and more in the attempt to meet this need.

I have been told that Russia is producing more of these technicians than the United States. It is not important whether you produce more technicians than Russia. It is important that you have enough to meet your needs for defense and to keep ahead in new developments. And your needs are also the needs of the free world.

I believe there is a further problem in the field of science that needs to be watched. Your Nation has earned a great reputation as a mass producer and for your ability to take an idea and improve on it. I suggest that you want to have the same reputation in basic research. Basic research has given us some near miracles in the past, and we want more in the future. I suggest you concentrate on this and lend your assistance, so that you gain for the United States a reputation in basic research that matches your reputation for production and applied techniques. The survival of the free world may well depend on your success in this vital matter.

Second. What is needed today in every nation is a clarion call and a roll of drums. That call must be one to discard out-of-date doctrines and methods of past wars, and to organize our affairs to take full advantage of the progress of science.

We see today the rise of airpower and the emergence of the air forces as the decisive arm in warfare. We see the big warship disappearing from the seas.

We see the day of the aircraft carrier approaching its end.

It is no good trying to fight against the inevitable, as some people do. Do not let us be mesmerized by what worked in past wars; it will not work again.

We must take off our hat to the past and roll up our sleeves for the future.

Service chiefs must cooperate closely with the scientist, put their problems clearly and simply to them, and give them all possible help in solving those problems.

We require a fighting machine which is backed by a sound logistic organization. Both of these, the fighting machine and the logistic organization, must be planned in full accord with scientific progress.

There will be much opposition.

The citadels of vested interests must be swept away; out-of-date procedures and techniques must be discarded. All this will require courage and decision.

And the first courageous decision will be to acknowledge the dominance of airpower and to place air forces in the position of being able to play their part as the decisive weapon in future war. This decision must be taken at once; delay will be dangerous.

Third. In the past the defense program of a nation has often been decided as a result of compromise decisions by chiefs of staff. If this practice is followed in the future we shall fail.

The vital thing today is to produce a military weapon which is in all respects adequate for the national needs and for the collective security system of the free world.

In the navy, the army, and the air force each nation has a team. By themselves the individual members can achieve little. The team can achieve victory if it is properly constituted. The progress of science is likely to change the former responsibilities of the three members in certain directions. Parts of the load are shifting from the shoulders of one service to the shoulders of another.

In particular, the air is coming to the front as the dominant factor in war and the decisive arm, as I have already said. This is going to introduce difficult problems, and in solving them do not let us bother unduly about the color of our uniform: dark blue, light blue, khaki.

What is vital is to find the right answer and the one which is best for the nation, and to reach that answer without ill-feeling and interservice quarrels.

Finally, the key to the future lies in the hands of the scientists and in institutes of technology such as yours. I am confident you will not fail us.

PROSPECTS FOR WESTERN UNITY AND THE SITUATION IN INDOCHINA—REPORTS BY SENATOR MANSFIELD

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the body of the RECORD the text of two reports which I made this fall, one being a report on Indochina, and the other a report on prospects for Western unity.

There being no objection, the two reports, together with the letters of transmittal, were ordered to be printed in the RECORD, as follows:

LETTER OF TRANSMITTAL

OCTOBER 15, 1954.

Hon. ALEXANDER WILEY,
Committee on Foreign Relations,
Washington, D. C.

DEAR MR. CHAIRMAN: Transmitted herewith is my report on a study mission to Vietnam and the kingdoms of Laos and Cambodia. I visited these countries during August and September en route and returning from the Republic of Philippines. In the latter country, as you know, I served as a delegate of the United States to the international conference on the Southeast Asia Treaty Organization, at the request of the President and the Secretary of State.

I should like to take this occasion to call to your attention the contribution being made by officers of the Department of State and other United States officials in the Philippines and Indochina. These men and women are working faithfully to carry out the policies of the Nation, sometimes under conditions of considerable personal hardship, with a high sense of the responsibilities of public service. They were uniformly helpful to me during the course of my mission.

I also want to commend Mr. Francis R. Valeo whom you assigned from the staff to accompany me on the mission. His assistance and cooperation were of inestimable value and they mark a continuation of his outstanding service from last year on the same project.

Sincerely yours,

MIKE MANSFIELD.

REPORT ON INDOCHINA

1. INTRODUCTION

The foreign policy of the United States has suffered a serious reversal in Indochina. More than a year ago, we embarked on a major effort to assist in the preservation of the three nations in the Indochinese area. These nations, Vietnam, Laos, and Cambodia, lay in the path of the southward sweep of totalitarian communism in Asia, and were threatened with engulfment in a new type of colonialism even before they had achieved full independence from the old.

The objective of our policy—to assist in the preservation of these states—was a worthy one. It accorded with our fundamental belief in the right of peoples to freedom. If achieved, it promised to enhance the security of the United States by setting up along the southern borders of an expansive and aggressive China a bloc of three independent and durable nations.

On my previous visit to Indochina, a year ago, it appeared to me that there was a reasonable expectation of accomplishing our objective. Experienced observers there expressed an almost unanimous view that the united efforts of the three Indochinese countries, France, and the United States could serve to check the Communist drive and might even eventually dissipate it.

Involved in this effort was the political and military mobilization of the indigenous peoples (particularly of Vietnam) against the Communists, a continuance of the military operations of the French Union forces in Indochina until the Viet Minh Communists were brought under control, and military aid from the United States. The extent of the American contribution to the effort is suggested by the allocation of assistance for Indochina. For the 3 fiscal years 1950–52 aid programs amounted to about $800 million. For 1953 and 1954, however, they were almost $1.8 billion.

On my recent visit to Indochina, I found that the optimism concerning the prospects of success for the united effort had all but disappeared and with good reason. Instead of being checked or overwhelmed the Viet Minh have now obtained firm control of the northern half of Vietnam. While Laos still remains outside the Communist engulfment, internal conditions in that country are such as to make its future highly speculative. Only in Cambodia is there some tangible expectation of the achievement of the objectives of a year ago.

The gravest situation exists in Vietnam. In this, the most populous and strategically the most important of the three states, events have now reached a stage of acute crisis. The Viet Minh are consolidating their hold on Vietnam north of the 17th parallel, the area allotted to them by the Geneva accord. The non-Communist Vietnamese leaders have spent much time and energy which should have gone into a similar consolidation in the south in what amounts to quasi-suicidal political maneuvering and strife.

This divisiveness in all probability has served to facilitate a growth in Viet Minh strength throughout Vietnam. Although the Geneva accord is being ostensibly observed in the entire country and the fighting has come to an end, the cease fire does not preclude a subsurface continuation of the Communist advance in south Vietnam. Viet Minh sympathizers are to be found throughout that region and it is likely that their number is growing. It must also be presumed that Viet Minh activists are being left behind as the Viet Minh withdraw their regular forces from south Vietnam in accordance with the terms of the cease fire. One observer described the situation to me in these terms: "Bring a brush down on the map of south Vietnam. Wherever the bristles touch you will find Viet Minh."

Beyond this subsurface infiltration, the possibilities of a sudden revival of an overt advance of the Viet Minh cannot be discounted. There is reason to believe that they accepted the Geneva agreement with some misgiving and only because it was necessary to some larger purpose of communism. By the same token, they could conceivably be led to abandon the agreement should the requirements of international communism change.

Regardless of this possibility, the state of affairs throughout Vietnam offers scant hope for an outcome in accord with the objectives of our policy. Unless there is a reversal of present trends, all of Vietnam is open in one way or another to absorption by the Viet Minh. Even now there is little to stand in their way.

The morale of the French Union forces was shaken by the defeat at Dien Bien Phu and, in any event, massive French military detachments in Indochina may well have outlived their usefulness. Internal political dissension among non-Communist Vietnamese factions and even blatant chicanery on the part of some tends to weaken the Nationalist Government and discourage popular acceptance of it. The national army of Vietnam is disorganized in the aftermath of the loss of the north. Recent developments, moreover, suggest that it is on the way to being converted into the private army of its commander and his advisers to be used, not for the legitimate purposes of the government but as a tool in the maneuvering for political power in Saigon.

In these circumstances, American material aid, regardless of amount, is hardly a panacea, and it may not even be a major factor in the achievement of the objectives of our policy in Indochina. In some instances it has even served inadvertently to work at cross-purposes with our objectives. According to best available estimates, for example, some 25 percent of American economic aid went into areas which are now held by the Communists, an unwitting gift of the United States to the Communists. To cite another case, our assistance made possible major improvement in the airport in the northern city of Hanoi. The airport has now passed intact to the Communists. Its new American-aid-built runway can handle heavy bombers capable of striking at our bases in the Philippines.

The situation in Vietnam, and in a larger sense in Indochina, is grim and discouraging. It would be misleading and futile to report it to the Senate and to the people of the Nation in any other fashion. The need, it seems to me, is not to bury the realities of this situation, but to face them, however grim and discouraging they may be. If we do so, it is possible that aspects of our policy in Indochina may be salvageable. It is also possible that the reversal which has been sustained in Indochina may yield experience which has application elsewhere in Asia. This experience could be useful in avoiding still other setbacks and the damaging waste of untold millions of dollars of the resources of the citizens of the United States.

2. BACKGROUND TO THE SITUATION IN INDOCHINA

A year ago, at the time of my previous visit to Indochina, the French authorities had recently put into effect a new plan of campaign against the Viet Minh. The plan was essentially military in concept. It envisioned a three-pronged effort which would combine the striking power of the French Union forces in Indochina, vastly expanded nationalist armies of the three states and large amounts of American material aid. The latter was all that was asked of us. There was no suggestion from any responsible source that American forces should become engaged in the fighting in Indochina. On the contrary, there was general agreement that their engagement would simply complicate the problem. In my report last year I emphasized that—

"American aid does not and should not involve the commitment of combat forces. Sacrifices for the defense of freedom must be equitably shared and we have borne our full burden in blood in Korea."

The objective of this three-prong plan was to break the stalemate in the war against the forces under the Communist government of Ho Chi Minh, a war which had gone on for 7 years. At that time, the combined military strength of the French Union forces and the Nationalist governments of the three states already outweighed their opponents in manpower in a ratio of 5 to 3. As a result largely of American assistance, moreover, the non-Communist forces possessed great superiority—estimated as high as 10 to 1—in armaments, and the flow of American aid was constant and increasingly heavy. As one French military observer expressed it: "Never before in our history have we had a force that was so well equipped and supplied."

In a military sense, therefore, the plan seemed to offer reasonable prospects of success and I so reported to the committee and to the Senate last year. It appeared to me then, however, that the fulfillment of two political conditions was essential to the accomplishment of the plan. There was, first, the need for a rapid and clear-cut transfer of full sovereignty from France to the three states; and second, an equally urgent need for the development of a capacity among the non-Communist Indochinese (particularly of Vietnam) to put aside factional strife and excessive self-seeking and to unite under a nationalist leadership firmly based in the populace.

The two conditions were of the greatest importance for these reasons. In the first place, the transfer of full sovereignty was essential in order to mobilize the latent power of nationalist sentiment against the Viet Minh. In this respect, I reported last year that—

"The current of nationalism runs strong throughout Indochina. It is not, perhaps, of equal fervor in each of the three states but in all of them it is the basic political reality. It gives rise to a desire for independence from foreign control that is deep seated and widespread."

For 7 years, the Communist leader, Ho Chi Minh, had capitalized on this force, especially in Vietnam. He had done so with effectiveness by concealing his Communist purposes in a cloak of nationalism. To have won the initiative from the Viet Minh in this matter would have required, on the part of the non-Communists, a major political offensive built on genuine nationalist concepts, an offensive that was at once sincere, bold, imaginative, and immediate.

The second political condition was equally important to the success of the plan. It involved, in effect, the development of a capacity among the non-Communists to submerge personal, factional, and sectarian interests in the larger interests of their country. The need to fulfill this latter condition was urgent because in 7 years the Viet Minh had acquired numerous fanatic adherents and had obtained the support, willing and unwilling, of additional millions. A year ago, however, a large part of the Vietnamese population, probably a substantial majority, still remained uncommitted to either side in the struggle. To rally this uncommitted segment and to win away supporters of the Viet Minh, it was essential that the non-Communists establish national governments of an integrity and character that would command the respect of the people and enlist their active support. In my report last year, I stated:

"The basic problem which confronts all three governments and particularly that of Vietnam is to put down firm roots in their respective populations. They will be able to do so only if they evolve in accord with popular sentiment and if they deal competently with such basic problems as illiteracy, public health, excessive population in the deltas, inequities in labor and in land tenure, and village and agricultural improvement. Finally, it is essential that there be a constant raising of the ethical standards of government and a determination to use the armies now in the process of formation strictly for national rather than private purposes."

A year ago the non-Communists appeared to be making progress under the three-prong plan. American military aid in quantity was reaching the ports of Saigon and Haiphong and was being used to enlarge the offensive capacity of the French forces as well as to equip the developing nationalist armies. The conscription and training of men for these armies was well advanced, particularly in Vietnam. Tryouts of a new "offensive strategy" in some minor engagements seemed to promise an end to the stalemated war in the near future.

Progress in fulfilling the two political conditions for success, however, did not match that in the military field. With respect to the transfer of sovereignty, an excellent beginning had been made with the French pledge of full sovereignty in the declaration of July 3, 1953. When it came to giving effect to the pledge, however, numerous delays were encountered, sometimes of a most petty

and exasperating nature. Norodom Palace in Saigon, for example, symbol of French rule in Indochina was not turned over to the Vietnamese until September 1954.

In Cambodia these delays led to serious tensions between the Nationalists and the French. Only in the case of Laos, whose government was most intimately associated with France and at that time least affected by the nationalist wave running through southeast Asia, did the negotiations go smoothly from the outset.

With respect to Vietnam, the key state in Indochina, the delays were the most conspicuous and damaging. Actual negotiations between France and Vietnam did not even begin until some 8 months after the July 3 declaration. It was not until June 4, 1954, almost a year later that the basic treaties were finally initialed by the representatives of the two countries. By that time, the event seemed of little moment and almost passed unnoticed. What might have been an occasion 6 months earlier for a rallying of nationalist sentiment in Vietnam was all but submerged in the loss of Dien Bien Phu and the negotiations which were then in progress at Geneva.

Failure to make an effective transfer of full sovereignty was matched by the inability of the Vienamese to develop a convincing nationalist leadership. The months following the July 3 declaration, months which should have been used for this purpose, were spent instead in an internal jockeying for power. The Chief of State, former Emperor Bao Dai, passed most of this critical period in Paris and at Cannes, rather than with the people of Vietnam. His Prime Minister, Prince Buu Loc, and the leading members of his cabinet likewise were out of the country for long periods.

It was during this interlude that the military situation moved toward its catastrophic climax at Dien Bien Phu. In December 1953, the Viet Minh had launched an attack on central and southern Laos, the weakest and least defensible of the three states. They unleashed a second offensive against the northeastern part of the country early in February. These offensives apparently were not taken seriously at first, some in Saigon and Washington even labeling them mere real-estate advances.

By the end of February, however, it was evident that they were serious. The reaction of the French Union command was to build a strong defensive point at Dien Bien Phu and, in effect, to invite attack on it in the hope of inflicting crippling losses on the enemy.

On March 12, the Viet Minh launched an assault on the fortress, as anticipated. Their tactics and firepower showed clearly from the outset the influence of increased aid from Communist China. They also displayed far greater offensive strength than the inadequate intelligence services of the non-Communist command had estimated when they began simultaneous attacks in north and central Vietnam. The effect of these diversionary drives was to prevent a concentration of defense at Dien Bien Phu. On May 7, the fortress surrendered. The Geneva agreement, signed some weeks later was almost an anticlimax.

It would do little good at this late date to indulge in recriminations over the tragic chain of events that led to Dien Bien Phu. In a sense each of the participants shares the responsibility; the French for miscalculating the magnitude of the military and political task they had set for themselves and then abandoning it at Geneva; the non-Communist Vietnamese for failing to provide responsible nationalist leadership to their people; and the administration here at home for overpromoting to itself and to the American people the capacity of material military aid alone to influence the situation in Vietnam as well as for the wave of irresponsible statements concerning direct American participation in the conflict at the time of Dien Bien Phu which served only to demoralize and to confuse the anti-Communist resistance in Indochina. Throughout these developments, moreover, there was a general tendency to make the wish father to the thought and consistently and seriously underestimate the strength of the Viet Minh.

If there was one overriding cause of the failure, however, it is to be found in the distorted emphasis given to the capacity of military measures alone to bring about an end to the Communist advance in Indochina. It was not because of an inadequacy of allied military manpower or of military equipment and supplies in Indochina that American policy suffered a reversal. It is difficult to see what more could have been added, short of some foolhardy commitment of American troops on the Asian mainland against an outpost of international communism—literally its third line of defense in Asia. What was lacking in the situation was not military power but a sound political substructure for this power which could only have been built by fulfilling the two conditions previously discussed.

3. THE GENEVA AGREEMENT

The Geneva agreement brought 8 years of war in Indochina at least to a temporary halt. It provided for a cease-fire which came into effect at various dates during July and August 1954 in Vietnam, Laos, and Cambodia. The operation of the agreement has now become a major factor in the present situation in Indochina.

Under the terms of the agreement, the conferees promise to respect the sovereignty, independence, unity, and territorial integrity of the three Indochinese States and to refrain from interference in their internal affairs. France, in a unilateral declaration, expresses a willingness to withdraw its forces from Indochina, except that special arrangements for their temporary retention may be made, at the request of the Indochinese Governments.

All sides agree to what amounts to a general amnesty, with provision for an exchange of prisoners and free movement of refugees. Laos and Cambodia and both sides in Vietnam pledge nondiscriminatory treatment to former dissidents remaining under their jurisdiction.

In connection with the international relations of the Indochinese States, the intent of the agreement appears to be to maintain the status quo. Thus, except if threatened, neither Laos nor Cambodia are expected to join in military alliances or to permit their territories to be used for foreign military bases and both sides in Vietnam are flatly prohibited from doing so. Restrictions of various kinds are applied to the introduction of additional foreign military personnel and materiel, the object being to permit limited rotation of men and piece-for-piece replacement of equipment but no increases.

The cease-fire provided for by the Geneva agreement is preliminary to an anticipated political settlement in Indochina. With respect to Cambodia this arrangement presents no special difficulties since only the National Government is recognized. The situation in Laos is more obscure and uncertain. Under the terms of the agreement, Viet Minh invaders are to be withdrawn but Laotian dissidents are to concentrate in two northern provinces of Laos, contiguous to Communist China and north Vietnam. Although the authority of the Laotian Government presumably extends over the area of dissident-occupation, the agreement is sufficiently unclear on this point to lay the groundwork for future difficulties.

The most serious problem created by the Geneva agreement is the splitting of the state of Vietnam, roughly at the 17th parallel into a Communist-controlled north and a non-Communist-controlled south. This arrangement is intended to be temporary and provision is made for a permanent political solution through the instrumentality of free general elections in Vietnam to be held in 1956. An international commission, composed of representatives of Canada, Poland, and India, is to supervise these elections.

The international commissions, one for each state, are also charged with general supervision of the observance of the cease-fire, although initial responsibility in this respect rests with joint commissions of the opposing forces. The international commissions make their recommendations on the basis of a majority vote, except in certain key decisions such as those pertaining to violations or threats of violations of the cease-fire, where unanimity is required. In the event of disagreement on the latter issues, the questions are referred to the signatory governments.

4. THE CURRENT SITUATION IN VIETNAM

Effect of the division at the 17th parallel

All of Vietnam north of the 17th parallel, with the exception of a small area around the city of Haiduong and the neighboring port of Haiphong has already been turned over to the Viet Minh. By May 19, 1955, the non-Communist forces will have withdrawn in progressive stages from these two places as well. In a similar fashion the Viet Minh are committed to pull back their forces from south of the 17th parallel, with the completion of their withdrawal also scheduled for May 19, 1955.

At the time of my visit to Hanoi in early September, the withdrawal of the French Union and Vietnamese nationalist forces from the north was proceeding without incident. Equipment was being evacuated by rail and truck from Hanoi to Haiphong. Military authorities in the area gave assurances that all movable equipment would be removed before the Viet Minh take over.

Only small forces remained in Hanoi to guard civilian and military installations. Government bureaus likewise were being maintained by skeleton forces. The Viet Minh encircled the outskirts of the city, awaiting the arrival of October 10, the official occupation date for Hanoi. In early September, however, Hanoi had already taken on the aspects of a ghost town. A few French civilians, mostly businessmen and technicians, were remaining in the north for an attempt "to ride out the storm." So, too, were most of the Indian and Pakistani merchants and a number of Chinese. Thousands of persons, however, had already left the city for the south or for Haiphong and countless others had faded into the surrounding villages.

The British consulate was remaining open. A decision has also been made to leave Americans at our consulate in Hanoi. When the French military withdrawal is completed, a French liaison mission under Jean Sainteny will remain. Sainteny, who conducted negotiations with the Viet Minh in 1946 on behalf of the French Government, is well acquainted with the Communist leaders.

With respect to the Viet Minh withdrawal from the south, it was generally reported to me in Saigon that the operation is proceeding, on the surface, in accord with the cease-fire agreement. Much of the Viet Minh military strength in the south, however, has lain under the surface. It is composed of irregulars; that is, peaceful civilians by day and marauders by night. It is impossible to determine how much of this strength is being left behind in the withdrawal.

The irregulars could blend with relative ease into the regular life of their communities where they would constitute a reservoir of Viet Minh leadership in the area under nominal non-Communist control. When this reservoir of activists is combined with Viet Minh sympathizers in the south,

the total strength of the anti-Government elements is probably very considerable.

According to reports reaching me in Saigon, the Viet Minh nuclei in the south are already making their weight felt. They do not generally interfere with the installation of nationalist officials in towns and villages, but by a subtle noncooperation and intimidation render them relatively powerless and in some cases virtual prisoners in their offices. Power in many localities, according to these reports, continues to reside in "shadow governments" responsive to the Vietminh.

Exchange of prisoners

This aspect of the agreement as it affects the return of French Union nationals appeared to be progressing fairly satisfactorily at the time of my visit to Vietnam. Several Americans held by the Viet Minh had also been released. The fate of many Vietnamese Nationalists and French Union soldiers, however, who disappeared in the north is still unknown.

The total number of prisoners returned to the Viet Minh far outnumbers those received from them. It is difficult to determine what part of this disparity is due to a deliberate Viet Minh policy of withholding and what part to desertions, conversions, and defections. It is a question which should be expected to command the attention of the International Commission.

Among the prisoners released while I was in Saigon was Gen. Christian de Castries, French commander at Dien Bien Phu. Because of the statements he made at the time of his release and other factors there has been a noticeable cooling off of attitude toward the general on the part of many French and American officials who just a few months ago were lavish in their praise of him. I cite the incident only because it illustrates the dangers of policymaking by personalities, a tendency which appears to afflict many of our officials charged with responsibilities in foreign relations both here and abroad. It is also noteworthy because it suggests the desirability of avoiding impetuous judgments of situations based upon reports filtering through press censorship from a distance of some 10,000 miles.

The refugee problem

Viet Minh propaganda promising amnesty and nondiscriminatory treatment to persons who formerly opposed them has failed to convince a substantial segment of the population in the north. Many thousands have chosen the difficult life of the refugee rather than to put faith in Communist promises. Reports in Hanoi indicated that while ostensibly abiding by the provisions of the cease-fire dealing with the free flow of refugees, the Viet Minh were placing obstacles in the way of some who desired to go south.

Nevertheless, as shown in the following table, by the middle of September, France and the United States had evacuated almost 300,000 persons by sea and air. Most of these evacuees are Vietnamese civilians and some 80 percent are Catholics.

Evacuations from North Vietnam

	French		United States, sea	Total
	Air	Sea		
French Union troops	12,937	11,845	------	24,382
Vietnam troops and dependents	3,703	19,644	5,702	29,079
French civilians	9,071	3,323	------	12,394
Vietnam civilians	90,681	49,424	80,176	220,281
Other civilians (includes Chinese and Nungs)	196	4,048	2,372	6,616
Total	116,418	88,284	88,250	292,952

It is entirely possible that the total number of evacuees may reach 400,000 to 450,000 before the northern area is completely abandoned to the Viet Minh. The movement of the refugees represents a humanitarian undertaking in which south Vietnam, France, and the United States are participating. Their efforts, moreover, have been supplemented by such organizations as the Red Cross, the United Nations International Children's Fund, CARE, religious welfare units, and the American Women's Club of Saigon. Gen. John W. O'Daniel, Chief of the United States Military Advisory Group in Indochina, and Mr. P. E. Everett, Acting Chief of the Foreign Operations Administration mission in Indochina are handling the operation for the United States. It includes the use of our naval vessels under the command of Rear Adm. Lorenzo S. Sabin, Jr. At Saigon, I went aboard the U. S. S. *Montrail* under the command of Capt. Scott K. Gibson, which had just arrived from Haiphong with several thousand refugees. I also inspected Camp Phutho, a transient establishment for refugees several miles outside Saigon. Both visits indicated to me that Americans are making an outstanding contribution in this humanitarian endeavor.

The problem of permanently resettling upward of 300,000 persons, mostly utterly destitute, is a major one, particularly in view of present conditions in south Vietnam. Reports reaching me after I had left Indochina, however, indicate that the Vietnamese Government, which has primary responsibility for this aspect of the refugee problem, is making a determined and effective effort to cope with it.

The political situation in south Vietnam

The most explosive single problem in Vietnam revolves about the current political crisis in south Vietnam. On its outcome may well hinge the fate of present American policy in Vietnam.

As previously pointed out, the Geneva agreement provides for general elections throughout Vietnam in 1956. Unless the political difficulties of south Vietnam are overcome quickly the area now remaining outside Communist hands may pass to the Vietminh at that time. Even before 1956, south Vietnam could give way to complete internal chaos.

The political crisis in south Vietnam stems from the same causes that were evident at the time of my previous visit, except that these causes have now become more acute. There is still the same shortsighted struggle for immediate gain among the various political groups, sects, and factions. Each of these elements possesses some aspects of power in its organization, armaments, or heritage of authority. None, however, is broadly based in the people. The urgent need to develop such a base through the formation of a national government by popular participation continues to be ignored. In their anxiety to preserve and enhance their individual positions the petty-power groups in south Vietnam appear completely oblivious to the overhanging shadow of the Viet Minh which before long may envelop them all unless they put aside their factionalism.

Saigon is the hub of the political crisis. Since the Geneva agreement that capital city has seethed with intrigue and counter-intrigue, with rumors and counter rumors. The political plotting goes on in army circles, government circles, foreign circles, in party headquarters, in police headquarters, and even in the demimonde of ill-disguised gangsters, pirates, and extortionists.

The pattern of conflicting interest and political rivalry in Saigon is complex and devious, so much so that it is virtually impossible to fix clear-cut responsibility for the crisis of inertia that grips the political life of the country.

Certain factors in the situation, however, are evident and tangible. In office at the present time is a government headed by Ngo Dinh Diem, President of the Council of Ministers. He has a theoretical mandate of full powers from the Chief of State, Bao Dai, who in turn derives his authority from a combination of a French grant and the persistence of the symbolic power of his former rule as Emperor.

In reality, however, Diem does not control the Vietnamese Nationalist Army; nor does he have power over the sureté or the police in the Saigon-Cholon area. By special arrangements with Bao Dai, the latter two are operated by Binh Xuyen, a demimonde organization which also controls gambling, and other questionable concessions in Saigon-Cholon. Diem's strength rests on the recently arrived refugees and on a tenuous alinement with two quasi-religious sects, the Cao Dai and Hoa Hao, each of which has a military force of some thousands of men responsive to its command.

Diem has a reputation throughout Vietnam for intense nationalism and equally intense incorruptibility, traits which have been sorely needed in the government of Vietnam. Those who criticize him point to his inexperience (he spent many years in exile during the period 1933–54), the fact that he is not a native of south Vietnam and his political rigidity which makes it difficult for him to compromise.

Whatever his shortcomings, the fact remains that Diem assumed the presidency on July 7, under the most difficult of circumstances, after half of the country had been lost to the Communists, while it was being governed by some of his most vehement critics. At that time, the Viet Minh were riding a crest of popularity in the aftermath of their victory at Dien Bien Phu. The national government was seriously disorganized. Thousands of refugees were moving into the south without adequate preparations having been made for their reception.

It might have been expected that in such a situation, those who professed to be anxious to see an independent, non-Communist government survive in Vietnam—French officials, the Vietnamese factions and the United States—would support the Diem government fully. The policy of the United States has been to give strong backing to that government. Our State Department officials have assisted it in every practicable way. Beyond this, however, the Diem government has had little else in the way of tangible support. On the contrary an incredible campaign of subversion by intrigue has gone on in the city of Saigon. Occasionally echoes of this campaign have reached the surface, as in the recent instance of the insubordination of the Vietnamese Army command.

While this campaign has gone on, Diem has been a virtual prisoner in his residence. His constructive program which consists of the elimination of some of the most brazen aspects of corruption and social inequity, remains largely a paper program. It is kept that way by a kind of conspiracy of noncooperation and sabotage by those who oppose him.

The political issue in South Vietnam is not Diem as an individual but rather the program for which he stands. It is unlikely that any independent non-Communist government can survive in Vietnam, let alone recover the Viet Minh-held areas unless it represents genuine nationalism, unless it is prepared to deal effectively with corruption, and unless it demonstrates a concern in advancing the welfare of the Vietnamese people.

If the effort to found a government based on those principles is now abandoned just a few months after its inception in an overthrow of Diem, it would raise, in my opinion, serious doubts about the salvageability of any of our present policy with respect to Vietnam. The visible alternatives to the Diem government are not promising. They are a Viet Minh absorption of the south or a government or succession of governments at Saigon in the pre-Diem pattern. Such

governments made little effort to root themselves in the people in the past and it is unlikely that they will do so in the future. It is probable, instead that they will continue to lean heavily and indefinitely on the prop of foreign support. Barring some drastic change in the total situation in Vietnam, such a government will stand only so long as the prop remains and Viet Minh acquiescence can be obtained in its survival.

5. THE SITUATION IN LAOS

The Kingdom of Laos has been invaded on several occasions by the Viet Minh, operating under the euphemism of "the Vietnamese People's Volunteers." In addition, there has long been active inside the country a native dissident movement known as the Pathet Lao.

Under the terms of the armistice, the Viet Minh invaders are to be withdrawn gradually from Laos to Vietnam and the Laotian dissidents are to concentrate in the northern provinces of Phong Saly and Sam Neua. The French Government is permitted to retain in Laos for the present some 5,000 men as a training mission and to maintain 2 military bases.

The Government of Laos, in a separate declaration at Geneva committed itself to integrate all citizens without discrimination into the national community and to guarantee to them constitutional rights and freedoms. Pending the holding of general elections, the Government agreed to provide special representation for the Laotian dissidents of the two northern provinces.

In a second separate declaration, the Government of Laos pledged that unless threatened, it will isolate the country in a military sense from other foreign nations except for the continuing ties with the French.

Considerable difficulty has been encountered in Laos in carrying out the terms reached at Geneva insofar as they involve the withdrawal and concentration, respectively, of the Viet Minh and the Laotian dissidents. The impression given me in Vientiane, the capital of Laos, was that the withdrawal of the Viet Minh was not proceeding either smoothly or rapidly. There is, moreover, every likelihood that in the process of withdrawal many Communist agents are being left behind. Such agents can readily be absorbed into the permanent community of Vietnamese nationals in Laos whose sympathies, I was advised, are heavily with Ho Chi Minh.

The Laotian dissidents in the northern provinces give rise to additional problems. They are interpreting the Geneva accord to mean that they may exercise full powers in Phong Saly and Sam Neua, at least pending the holding of a general election. Compulsory political indoctrination is being enforced in the villages which they control. Young men from all over Laos are being brought to the provinces for training and some are being sent to north Vietnam for the same purpose.

The basic propaganda theme of the dissident Laotians is that the true king of the country is Prince Souphamouvong, rather than the incumbent, King Sisavong Vong. Souphamouvong is a half brother of the present prime minister of the regular Laotian Government, Prince Souvana Phouma.

That severe tensions have developed in Laos over the last year is evident from the arrest of several hundred plotters some months ago and the assassination of the Laotion Defense Minister Kou Voravong on September 19. There is a possibility that these tensions may be dissipated by a sudden realinement of loyalties among the various leaders, Government and dissident alike, many of whom are personally acquainted.

A development of this kind, if it occurred, might express itself in a sudden nationalist surge against the French, who still retain considerable influence in Laos, and who have heretofore had less difficulty in dealing with the Laotian Government than with any other in Indochina. In present circumstances in southeast Asia, however, it is unlikely that Laos can stand without strong foreign ties. As it is now, the Laotians are heavily dependent on French technical and military assistance and American aid. If the French go, it would appear inevitable that Laos would move or be moved into the orbit of one or more of its stronger neighbors.

6. THE SITUATION IN CAMBODIA

At the time of my previous visit the fever of militant nationalism was at its height in Cambodia. Thousands of young men were engaged in military training in the streets of the capital, Pnom Penh. The Cambodian Government, under the young and energetic King Norodom Sihanouk Varman was both leading and being led by the powerful nationalist surge. That this Government was influenced by the ideas and experiences of Indian nationalism and policy was evident then and even clearer on the occasion of my recent visit.

Last year the Cambodians obtained full control over their armed forces from the French and subsequently full independence. There are details still to be worked out to give final form to the transfer of sovereignty. For all practical purposes, however, Cambodia is independent. Perhaps even more significant, the people of the country know and believe that they are independent.

This development appears to have produced a salutary situation in Cambodia. Relations with the French, now on the basis of equality, have improved, and French technicians are being retained to assist in the training of the army. Dissident nationalist elements among the Cambodians, according to reports which I received, have been weakened, and the shadowy Communist-sponsored "Khmer government" apparently has lost what little support it formerly enjoyed.

The Geneva agreement served to strengthen the stability of the country by providing for the rapid removal of all foreign forces from Cambodia and the demobilization on the spot of the Khmer resistance forces.

Assuming that aggression is not resumed, the principal problems confronting Cambodia are essentially those of modernization. In this respect the country is fortunate for it is rich in resources and relatively underpopulated. There is an eagerness for progress on the part of the King and his immediate advisers. It is an eagerness, however, that is tempered by an appreciation of the value of their rich and vital traditional culture.

To fuse those technical elements of western civilization which are needed and desired in Cambodia with the existing culture without destroying the latter will not prove easy. To the extent that United States assistance plays a part in this process, it should be extended with a full awareness of this difficulty. The presence of the recently appointed American Ambassador at Pnom Penh should help to insure caution in this matter.

7. CONCLUDING COMMENTS

A year ago, the principal requirements for the success of our policy with respect to Indochina were political. These requirements, full independence and effective internal government, notably in Vietnam, have not been effectively fulfilled. The failure in this respect appears also to have been accompanied by a consistent underestimating of both the political and military strength of the Viet Minh, on the part of practically all concerned. In consequence, the situation has seriously deteriorated.

The United States shares responsibility for the reversal in Indochina. We should not make the mistake, however, of assuming all the blame. We gave material aid unstintingly, but its value was dissipated by inadequacies elsewhere. I report this, not so much in criticism—I am fully aware of the great contributions to the common cause made by sincere French officials and sincere Vietnamese nationalists—but rather to make clear that this country has discharged the commitments which it was asked to make last year and which it agreed to make. At that time it was not asked to commit and was even discouraged from committing manpower in Indochina. Not until the crisis of Dien Bien Phu did the question even arise. Then the pressures of American opinion operating largely through Congress discouraged a hasty, ill-conceived involvement. Our share in the defense of Indochina was clearly understood at the outset to be the supply of material aid only and we quite properly insisted that this understanding be maintained. The situation in Indochina is only one of the many crises that confront us and the burden of sustaining freedom in the world must be equitably borne.

At present there appears to be, at best, scant hope of achieving the objectives of our policy in Indochina in the near future, with Cambodia the only exception to this conclusion. The present Government of Vietnam which is based on the sound principles of national independence, an end to corruption and internal amelioration, is immobilized largely by a squabbling, plotting opposition. Its critics complain of the personality of the leader of that Government. In view of the numerous and varied personalities who have occupied the Presidency in Saigon during the past 2 or 3 years without tangible results, it seems more likely that the real question is one of dissatisfaction with the principles of the Diem government rather than the inadequacies of his personality.

Should the Diem government be forced out of office, it is doubtful that under the pressure of time a more satisfactory substitute, subscribing to the same principles to which he does, will be found. Yet these principles must prevail in south Vietnam if an alternative to the Communist Viet Minh that is likely to be acceptable to the people of Vietnam is to exist. Any replacement of Diem at this time, if it occurs, will probably take the form of a military dictatorship based upon a coalition of the special interests, parties, and groups which now oppose the present Government. It is improbable that the substitute will be the kind of government which will be generally supported by the Vietnamese people any more than the pre-Diem governments were. Nor is it likely to be a government capable of sustaining a free and independent Vietnam eventually without foreign support. It was to develop that kind of Vietnam that the United States made available hundreds of millions of dollars of aid. In my view, only that kind of Vietnam can achieve the purpose of our policy in Indochina, which, in the final analysis, is its freedom and the consequent enhancement of our own security.

In the event that the Diem government falls, therefore, I believe that the United States should consider an immediate suspension of all aid to Vietnam and the French Union forces there, except that of a humanitarian nature, preliminary to a complete reappraisal of our present policies in Free Vietnam. Unless there is reasonable expectation of fulfilling our objectives the continued expenditure of the resources of the citizens of the United States is unwarranted and inexcusable.

I further recommend that the appropriate committees of the Senate study the extent of the losses of United States military and other aid in Indochina through defeat, defections, and the operation of the Geneva accord. The purposes of such a study might well be not merely to establish the monetary value of the losses already sustained but to determine their adverse effect on our own security by their inadvertent contribution to international communism in Asia. Such an

investigation might also yield more satisfactory criteria than apparently exist at present for determining to what countries, in what amounts, and under what conditions military and other aid can be effectively extended.

In suggesting such a study, I do not intend to imply that such aid has no place in our policies with respect to Asia. It seems to me essential, however, that the limitations and dangers as well as the potentialities of assistance programs must be clearly understood. We must guard against extending aid by force of habit.

In the light of my recent observations in southeast Asia, it seems to me that these commonsense precautions have not always prevailed in the conduct of our policy in that region. Unless they do, we are likely to find the door shut against our legitimate security, and our cultural and commercial interests in Asia. We will have arrived at this point despite the expenditure of billions of dollars, in good faith, for what we believed were decent, worthy, and mutually beneficial purposes.

APPENDIX I

AGREEMENTS OF THE GENEVA CONFERENCE ON INDOCHINA

AGREEMENT ON THE CESSATION OF HOSTILITIES IN VIETNAM

(IC/42/Rev. 2, July 20, 1954)

Chapter I—Provisional military demarcation line and demilitarized zone

Article 1

A provisional military demarcation line shall be fixed, on either side of which the forces of the two parties shall be regrouped after their withdrawal, the forces of the People's Army of Vietnam to the north of the line and the forces of the French Union to the south.

The provisional military demarcation line is fixed as shown on the map attached. (See map No. 1 (not printed).)

It is also agreed that a demilitarized zone shall be established on either side of the demarcation line, to a width of not more than 5 kilometers from it, to act as a buffer zone and avoid any incidents which might result in the resumption of hostilities.

Article 2

The period within which the movement of all the forces of either party into its regrouping zone on either side of the provisional military demarcation line shall be completed shall not exceed 300 days from the date of the present agreement's entry into force.

Article 3

When the provisional military demarcation line coincides with a waterway, the waters of such waterway shall be open to civil navigation by both parties wherever one bank is controlled by one party and the other bank by the other party. The joint commission shall establish rules of navigation for the stretch of waterway in question. The merchant shipping and other civilian craft of each party shall have unrestricted access to the land under its military control.

Article 4

The provisional military demarcation line between the two final regrouping zones is extended into the territorial waters by a line perpendicular to the general line of the coast.

All coastal islands north of this boundary shall be evacuated by the armed forces of the French Union, and all islands south of it shall be evacuated by the forces of the People's Army of Vietnam.

Article 5

To avoid any incidents which might result in the resumption of hostilities, all military forces, supplies, and equipment shall be withdrawn from the demilitarized zone within 25 days of the present agreement's entry into force.

Article 6

No person, military or civilian, shall be permitted to cross the provisional military demarcation line unless specifically authorized to do so by the Joint Commission.

Article 7

No person, military or civilian, shall be permitted to enter the demilitarized zone except persons concerned with the conduct of civil administration and relief and persons specifically authorized to enter by the Joint Commission.

Article 8

Civil administration and relief in the demilitarized zone on either side of the provisional military demarcation line shall be the responsibility of the commanders in chief of the two parties in their respective zones. The number of persons, military or civilian, from each side who are permitted to enter the demilitarized zone for the conduct of civil administration and relief shall be determined by the respective commanders, but in no case shall the total number authorized by either side exceed at any one time a figure to be determined by the Trung Gia Military Commission or by the Joint Commission. The number of civil police and the arms to be carried by them shall be determined by the Joint Commission. No one else shall carry arms unless specifically authorized to do so by the Joint Commission.

Article 9

Nothing contained in this chapter shall be construed as limiting the complete freedom of movement into, out of, or within the demilitarized zone of the Joint Commission, its joint groups, the international commission to be set up as indicated below, its inspection teams and any other persons, supplies, or equipment specifically authorized to enter the demilitarized zone by the joint commission. Freedom of movement shall be permitted across the territory under the military control of either side over any road or waterway which has to be taken between points within the demilitarized zone when such points are not connected by roads or waterways lying completely within the demilitarized zone.

Chapter II—Principles and procedure governing implementation of the present agreement

Article 10

The commanders of the forces on each side, on the one side the commander in chief of the French Union forces in Indochina and on the other side the commander in chief of the People's Army of Vietnam, shall order and enforce the complete cessation of all hostilities in Vietnam by all armed forces under their control, including all units and personnel of the ground, naval, and air forces.

Article 11

In accordance with the principle of a simultaneous cease-fire throughout Indochina, the cessation of hostilities shall be simultaneous throughout all parts of Vietnam, in all areas of hostilities and for all the forces of the two parties.

Taking into account the time effectively required to transmit the cease-fire order down to the lowest échelons of the combatant forces on both sides, the two parties are agreed that the cease-fire shall take effect completely and simultaneously for the different sectors of the country as follows:

Northern Vietnam at 8 a. m. (local time) on July 27, 1954.

Central Vietnam at 8 a. m. (local time) on August 1, 1954.

Southern Vietnam at 8 a. m. (local time) on August 11, 1954.

It is agreed that Pekin mean time shall be taken as local time.

From such time as the cease-fire becomes effective in northern Vietnam, both parties undertake not to engage in any large-scale offensive action in any part of the Indochinese theater of operations and not to commit the air forces based on northern Vietnam outside that sector. The two parties also undertake to inform each other of their plans for movement from one regrouping zone to another within 25 days of the present agreement's entry into force.

Article 12

All the operations and movements entailed in the cessation of hostilities and regrouping must proceed in a safe and orderly fashion:

(a) Within a certain number of days after the cease-fire agreement shall have become effective, the number to be determined on the spot by the Trung Gia Military Commission, each party shall be responsible for removing and neutralizing mines (including river- and sea-mines), booby traps, explosives and any other dangerous substances placed by it. In the event of its being impossible to complete the work of removal and neutralization in time, the party concerned shall mark the spot by placing visible signs there. All demolitions, mine fields, wire entanglements, and other hazards to the free movement of the personnel of the Joint Commission and its joint groups, known to be present after the withdrawal of the military forces, shall be reported to the Joint Commission by the commanders of the opposing forces;

(b) From the time of the cease-fire until regrouping is completed on either side of the demarcation line:

(1) The forces of either party shall be provisionally withdrawn from the provisional assembly areas assigned to the other party.

(2) When one party's forces withdraw by a route (road, rail, waterway, sea route) which passes through the territory of the other party (see art. 24), the latter party's forces must provisionally withdraw 3 kilometers on each side of such route, but in such a manner as to avoid interfering with the movements of the civil population.

Article 13

From the time of the cease-fire until the completion of the movements from one regrouping zone into the other, civil and military transport aircraft shall follow air-corridors between the provisional assembly areas assigned to the French Union forces north of the demarcation line on the one hand and the Laotian frontier and the regrouping zone assigned to the French Union forces on the other hand.

The position of the air-corridors, their width, the safety route for single-engined military aircraft transferred to the south and the search and rescue procedure for aircraft in distress shall be determined on the spot by the Trung Gia Military Commission.

Article 14

Political and administrative measures in the two regrouping zones, on either side of the provisional military demarcation line:

(a) Pending the general elections which will bring about the unification of Vietnam, the conduct of civil administration in each regrouping zone shall be in the hands of the party whose forces are to be regrouped there in virtue of the present agreement;

(b) Any territory controlled by one party which is transferred to the other party by the regrouping plan shall continue to be administered by the former party until such date as all the troops who are to be transferred have completely left that territory so as to free the zone assigned to the party in question. From then on, such territory shall be regarded as transferred to the other party, who shall assume responsibility for it.

Steps shall be taken to ensure that there is no break in the transfer of responsibilities. For this purpose, adequate notice shall be given by the withdrawing party to the other party, which shall make the necessary

arrangements, in particular by sending administrative and police detachments to prepare for the assumption of administrative responsibility. The length of such notice shall be determined by the Trung Gia Military Commission. The transfer shall be effected in successive stages for the various territorial sectors.

The transfer of the civil administration of Hanoi and Haiphong to the authorities of the Democratic Republic of Vietnam shall be completed within the respective time-limits laid down in article 15 for military movements.

(c) Each party undertakes to refrain from any reprisals or discrimination against persons or organizations on account of their activities during the hostilities and to guarantee their democratic liberties.

(d) From the date of entry into force of the present agreement until the movement of troops is completed, any civilians residing in a district controlled by one party who wish to go and live in the zone assigned to the other party shall be permitted and helped to do so by the authorities in that district.

Article 15

The disengagement of the combatants, and the withdrawals and transfers of military forces, equipment and supplies shall take place in accordance with the following principles:

(a) The withdrawals and transfers of the military forces, equipment and supplies of the two parties shall be completed within 300 days, as laid down in article 2 of the present agreement;

(b) Within either territory successive withdrawals shall be made by sectors, portions of sectors, or provinces. Transfers from one regrouping zone to another shall be made in successive monthly installments proportionate to the number of troops to be transferred;

(c) The two parties shall undertake to carry out all troop withdrawals and transfers in accordance with the aims of the present agreement, shall permit no hostile act and shall take no step whatsoever which might hamper such withdrawals and transfers. They shall assist one another as far as this is possible;

(d) The two parties shall permit no destruction or sabotage of any public property and no injury to the life and property of the civil population. They shall permit no interference in local civil administration;

(e) The Joint Commission and the International Commission shall ensure that steps are taken to safeguard the forces in the course of withdrawal and transfer;

(f) The Trung Gia Military Commission, and later the Joint Commission, shall determine by common agreement the exact procedure for the disengagement of the combatants and for troop withdrawals and transfers, on the basis of the principles mentioned above and within the framework laid down below:

1. The disengagement of the combatants, including the concentration of the armed forces of all kinds and also each party's movements into the provisional assembly areas assigned to it and the other party's provisional withdrawal from it, shall be completed within a period of not exceeding 15 days after the date when the cease-fire becomes effective.

The general delineation of the provisional assembly areas is set out in the maps annexed to the present agreement.

In order to avoid any incidents, no troops shall be stationed less than 1,500 meters from the lines delimiting the provisional assembly areas.

During the period until the transfers are concluded, all the coastal islands west of the following lines shall be included in the Haiphong perimeter: Meridian of the southern point of Kebao Island; northern coast of Ile Rousse (excluding the island), extended as far as the meridian of Campha-Mines; meridian of Campha-Mines.

2. The withdrawals and transfers shall be effected in the following order and within the following periods (from the date of the entry into force of the present agreement):

Forces of the French Union

Hanoi perimeter	80 days
Haiduong perimeter	100 days
Haiphong perimeter	300 days

Forces of the People's Army of Vietnam

Ham Tan and Xuyenmoc provisional assembly area	80 days
Central Vietnam provisional assembly area—first installment	80 days
Plaine des Joncs provisional assembly area	100 days
Central Vietnam provisional assembly area—second installment	100 days
Point Camau provisional assembly area	200 days
Central Vietnam provisional assembly area—last installment	300 days

Chapter III—Ban on introduction of fresh troops, military personnel, arms and munitions. Military bases

Article 16

With effect from the date of entry into force of the present agreement, the introduction into Vietnam of any troop reinforcements and additional military personnel is prohibited.

It is understood, however, that the rotation of units and groups of personnel, the arrival in Vietnam of individual personnel on a temporary-duty basis, and the return to Vietnam of individual personnel after short periods of leave or temporary duty outside Vietnam shall be permitted under the conditions laid down below:

(a) Rotation of units (defined in paragraph (c) of this article) and groups of personnel shall not be permitted for French Union troops stationed north of the provisional military demarcation line laid down in article 1 of the present agreement, during the withdrawal period provided for in article 2.

However, under the heading of individual personnel not more than 50 men, including officers, shall during any one month be permitted to enter that part of the country north of the provisional military demarcation line on a temporary-duty basis or to return there after short periods of leave or temporary duty outside Vietnam.

(b) "Rotation" is defined as the replacement of units or groups of personnel by other units of the same echelon or by personnel who are arriving in Vietnam territory to do their overseas service there;

(c) The units rotated shall never be larger than a battalion—or the corresponding echelon for air and naval forces;

(d) Rotation shall be conducted on a man-for-man basis, provided, however, that in any one quarter neither party shall introduce more than 15,500 members of its armed forces into Vietnam under the rotation policy;

(e) Rotation units (defined in paragraph (c) of this article) and groups of personnel, and the individual personnel mentioned in this article, shall enter and leave Vietnam only through the entry points enumerated in article 20, below;

(f) Each party shall notify the Joint Commission and the International Commission at least 2 days in advance of any arrivals or departures of units, groups of personnel and individual personnel in or from Vietnam. Reports on the arrivals or departures of units groups of personnel and individual personnel in or from Vietnam shall be submitted daily to the Joint Commission and the International Commission.

All the above-mentioned notifications and reports shall indicate the places and dates of arrival or departure and the number of persons arriving or departing.

(g) The International Commission, through its inspection teams, shall supervise and inspect the rotation of units and groups of personnel and the arrival and departure of individual personnel as authorized above, at the points of entry enumerated in article 20 below.

Article 17

(a) With effect from the date of entry into force of the present agreement, the introduction into Vietnam of any reinforcements in the form of all types of arms, munitions, and other war material, such as combat aircraft, naval craft, pieces of ordnance, jet engines and jet weapons and armored vehicles, is prohibited.

(b) It is understood, however, that war material, arms, and munitions which have been destroyed, damaged, worn out or used up after the cessation of hostilities may be replaced on the basis of piece-for-piece of the same type and with similar characteristics. Such replacements of war material, arms, and munitions shall not be permitted for French Union troops stationed north of the provisional military demarcation line laid down in article 1 of the present agreement, during the withdrawal period provided for in article 2.

Naval craft may perform transport operations between the regrouping zones.

(c) The war material, arms, and munitions for replacement purposes provided for in paragraph (b) of this article, shall be introduced into Vietnam only through the points of entry enumerated in article 20 below. War material, arms, and munitions to be replaced shall be shipped from Vietnam only through the points of entry enumerated in article 20 below;

(d) Apart from the replacements permitted within the limits laid down in paragraph (b) of this article, the introduction of war material, arms, and munitions of all types in the form of unassembled parts for subsequent assembly is prohibited;

(e) Each party shall notify the Joint Commission and the International Commission at least 2 days in advance of any arrivals or departures which may take place of war material, arms, and munitions of all types.

In order to justify the requests for the introduction into Vietnam of arms, munitions, and other war material (as defined in par. (a) of this article) for replacement purposes, a report concerning each incoming shipment shall be submitted to the Joint Commission and the International Commission. Such reports shall indicate the use made of the items so replaced.

(f) The International Commission, through its inspection teams, shall supervise and inspect the replacements permitted in the circumstances laid down in this article at the points of entry enumerated in article 20 below.

Article 18

With effect from the date of entry into force of the present agreement, the establishment of new military bases is prohibited throughout Vietnam territory.

Article 19

With effect from the date of entry into force of the present agreement, no military base under the control of a foreign state may be established in the regrouping zone of either party; the two parties shall insure that the zones assigned to them do not adhere to any military alliance and are not used for the resumption of hostilities or to further an aggressive policy.

Article 20

The points of entry into Vietnam for rotation personnel and replacements of material are fixed as follows: Zones to the north of the provisional military demarcation line: Laokay, Langson, Tien-Yen, Haiphong, Vinh,

Dong-Hoi, Muong-Sen; zones to the south of the provisional military demarcation line: Tourane, Quinhon, Nhatrang, Bangoi, Saigon, Cap St. Jacques, Tanchau.

Chapter IV—Prisoners of war and civilian internees

Article 21

The liberation and repatriation of all prisoners of war and civilian internees detained by each of the two parties at the coming into force of the present agreement shall be carried out under the following conditions:

(a) All prisoners of war and civilian internees of Vietnam, the French and other nationalities captured since the beginning of hostilities in Vietnam during military operations or in any other circumstances of war and in any part of the territory of Vietnam shall be liberated within a period of 30 days after the date when the cease-fire becomes effective in each theater.

(b) The term "civilian internees" is understood to mean all persons who, having in any way contributed to the political and armed struggle between the two parties, have been arrested for that reason and have been kept in detention by either party during the period of hostilities.

(c) All prisoners of war and civilian internees held by either party shall be surrendered to the appropriate authorities of the other party, who shall give them all possible assistance in proceeding to their country of origin, place of habitual residence, or the zone of their choice.

Chapter V—Miscellaneous

Article 22

The commanders of the forces of the two parties shall ensure that persons under their respective commands who violate any of the provisions of the present agreement are suitably punished.

Article 23

In cases in which the place of burial is known and the existence of graves has been established, the commander of the forces of either party shall, within a specific period after the entry into force of the armistice agreement, permit the graves service personnel of the other party to enter the part of Vietnam territory under their military control for the purpose of finding and removing the bodies of deceased military personnel of that party, including the bodies of deceased prisoners of war. The joint commission shall determine the procedures and the time limit for the performance of this task. The commanders of the forces of the two parties shall communicate to each other all information in their possession as to the place of burial of military personnel of the other party.

Article 24

The present agreement shall apply to all the armed forces of either party. The armed forces of each party shall respect the demilitarized zone and the territory under the military control of the other party, and shall commit no act and undertake no operation against the other party and shall not engage in blockade of any kind in Vietnam.

For the purposes of the present article, the word "territory" includes teritorial waters and air space.

Article 25

The commanders of the forces of the two parties shall afford full protection and all possible assistance and cooperation to the Joint Commission and its joint groups and to the International Commission and its inspection teams in the performance of the functions and tasks assigned to them by the present agreement.

Article 26

The costs involved in the operations of the Joint Commission and joint groups and of the International Commission and its inspection teams shall be shared equally between the two parties.

Article 27

The signatories of the present agreement and their successors in their functions shall be responsible for insuring the observance and enforcement of the terms and provisions thereof. The commanders of the forces of the two parties shall, within their respective commands, take all steps and make all arrangements necessary to insure full compliance with all the provisions of the present agreement by all elements and military personnel under their command.

The procedures laid down in the present agreement shall, whenever necessary, be studied by the commanders of the two parties and, if necessary, defined more specifically by the Joint Commission.

Chapter VI—Joint Commission and International Commission for Supervision and Control in Vietnam

28. Responsibility for the execution of the agreement on the cessation of hostilities shall rest with the parties.

29. An International Commission shall insure the control and supervision of this execution.

30. In order to facilitate, under the conditions shown below, the execution of provisions concerning joint actions by the two parties a Joint Commission shall be set up in Vietnam.

31. The Joint Commission shall be composed of an equal number of representatives of the commanders of the two parties.

32. The presidents of the delegations to the Joint Commission shall hold the rank of general.

The Joint Commission shall set up joint groups the number of which shall be determined by mutual agreement between the parties. The joint groups shall be composed of an equal number of officers from both parties. Their location on the demarcation line between the regrouping zones shall be determined by the parties whilst taking into account the powers of the Joint Commission.

33. The Joint Commission shall insure the execution of the following provisions of the agreement on the cessation of hostilities:

(a) A simultaneous and general cease-fire in Vietnam for all regular and irregular armed forces of the two parties.

(b) A regroupment of the armed forces of the two parties.

(c) Observance of the demarcation lines between the regrouping zones and of the demilitarized sectors.

Within the limits of its competence it shall help the parties to execute the said provisions, shall insure liaison between them for the purpose of preparing and carrying out plans for the application of these provisions, and shall endeavor to solve such disputed questions as may arise between the parties in the course of executing these provisions.

34. An International Commission shall be set up for the control and supervision over the application of the provisions of the agreement on the cessation of hostilities in Vietnam. It shall be composed of representatives of the following states: Canada, India, and Poland.

It shall be presided over by the representative of India.

35. The International Commission shall set up fixed and mobile inspection teams, composed of an equal number of officers appointed by each of the above-mentioned states. The fixed teams shall be located at the following points: Laokay, Langson, Tien-Yen, Haiphong, Vinh, Dong-Hoi, Muong-Sen, Tourane, Quinhon, Nhatrang, Bangoi, Saigon, Cap St. Jacques, Tranchau. These points of location may, at a later date, be altered at the request of the Joint Commission, or of one of the parties, or of the International Commission itself, by agreement between the International Commission and the command of the party concerned. The zones of action of the mobile teams shall be the regions bordering the land and sea frontiers of Vietnam, the demarcation lines between the regrouping zones and the demilitarized zones. Within the limits of these zones they shall have the right to move freely and shall receive from the local civil and military authorities all facilities they may require for the fulfillment of their tasks (provision of personnel, placing at their disposal documents needed for supervision, summoning witnesses necessary for holding inquiries, insuring the security and freedom of movement of the inspection teams, etc. * * *). They shall have at their disposal such modern means of transport, observation, and communication as they may require. Beyond the zones of action as defined above, the mobile teams may, by agreement with the command of the party concerned, carry out other movements within the limits of the tasks given them by the present agreement.

36. The International Commission shall be responsible for supervising the proper execution by the parties of the provisions of the agreement. For this purpose it shall fulfill the tasks of control, observation, inspection, and investigation connected with the application of the provisions of the agreement on the cessation of hostilities, and it shall in particular:

(a) Control the movement of the armed forces of the two parties, effected within the framework of the regroupment plan.

(b) Supervise the demarcation lines between the regrouping areas, and also the demilitarized zones.

(c) Control the operations of releasing prisoners of war and civilian internees.

(d) Supervise at ports and airfields as well as along all frontiers of Vietnam the execution of the provisions of the agreement on the cessation of hostilities, regulating the introduction into the country of armed forces, military personnel, and of all kinds of arms, munitions, and war materiel.

37. The International Commission shall, through the medium of the inspection teams mentioned above, and as soon as possible either on its own initiative, or at the request of the Joint Commission, or of one of the parties, undertake the necessary investigations both documentary and on the ground.

38. The inspection teams shall submit to the International Commission the results of their supervision, their investigation and their observations, furthermore they shall draw up such special reports as they may consider necessary or as may be requested from them by the Commission. In the case of a disagreement within the teams, the conclusions of each member shall be submitted to the Commission.

39. If any one inspection team is unable to settle an incident or considers that there is a violation or a threat of a serious violation the International Commission shall be informed; the latter shall study the reports and the conclusions of the inspection teams, and shall inform the parties of the measures which should be taken for the settlement of the incident, ending of the violation or removal of the threat of violation.

40. When the Joint Commission is unable to reach an agreement on the interpretation to be given to some provision or on the appraisal of a fact, the International Commission shall be informed of the disputed question. Its recommendations shall be sent directly to the parties and shall be notified to the Joint Commission.

41. The recommendations of the International Commission shall be adopted by majority vote, subject to the provisions contained in article 42. If the votes are divided the chairman's vote shall be decisive.

The International Commission may formulate recommendations concerning amendments and additions which should be made to the provisions of the agreement on the cessation of hostilities in Vietnam, in order to insure a more effective execution of that agreement. These recommendations shall be adopted unanimously.

42. When dealing with questions concerning violations, or threats of violations, which might lead to a resumption of hostilities, namely:

(a) Refusal by the armed forces of one party to effect the movements provided for in the regroupment plan;

(b) Violation by the armed forces of one of the parties of the regrouping zones, territorial waters, or air space of the other party; the decisions of the International Commission must be unanimous.

43. If one of the parties refuses to put into effect a recommendation of the International Commission, the parties concerned or the Commission itself shall inform the members of the Geneva Conference.

If the International Commission does not reach unanimity in the cases provided for in article 42, it shall submit a majority report and one or more minority reports to the members of the Conference.

The International Commission shall inform the members of the Conference in all cases where its activity is being hindered.

44. The International Commission shall be set up at the time of the cessation of hostilities in Indochina in order that it should be able to fulfill the tasks provided for in article 36.

45. The International Commission for Supervision and Control in Vietnam shall act in close cooperation with the International Commissions for Supervision and Control in Cambodia and Laos.

The Secretaries-General of these three Commissions shall be responsible for coordinating their work and for relations between them.

46. The International Commission for Supervision and Control in Vietnam may, after consultation with the International Commissions for Supervision and Control in Cambodia and Laos, and having regard to the development of the situation in Cambodia and Laos, progressively reduce its activities. Such a decision must be adopted unanimously.

47. All the provisions of the present agreement, save the second subparagraph of article 11, shall enter into force at 2400 hours (Geneva time) on July 22, 1954.

Done in Geneva at 2400 hours on the 20th day of July 1954 in French and in Vietnamese, both texts being equally authentic.

TA-QUANG-BUU,
Vice Minister of National Defense of the Democratic Republic of Vietnam (For the Commander in Chief of the People's Army of Vietnam).

Brigadier General DELTEIL,
(For the Commander in Chief of the French Union Forces in Indochina).

ANNEX TO THE AGREEMENT ON THE CESSATION OF HOSTILITIES IN VIETNAM

I. DELINEATION OF THE PROVISIONAL MILITARY DEMARCATION LINE AND THE DEMILITARIZED ZONE

(Art. 1 of the Agreement; reference map Indochina 1/100,000)

(a) The provisional military demarcation line is fixed as follows, reading from east to west: The mouth of the Song Ben Hat (Cua Tung River) and the course of that river (known as the Rao Thanh in the mountains) to the village of Bo Ho Su, then the parallel of Bo Ho Su to the Laos-Vietnam frontier.

(b) The demilitarized zone shall be delimited by Trung Gia Military Commission in accordance with the provisions of article 1 of the agreement on the cessation of hostilities in Vietnam.

II. GENERAL DELINEATION OF THE PROVISIONAL ASSEMBLY AREAS

(Art. 15 of the agreement; reference maps, Indochina 1/400,000)

(a) *North Vietnam*

Delineation of the Boundary of the Provisional Assembly Area of the French Union Forces

1. The perimeter of Hanoi is delimited by the arc of a circle with a radius of 15 kilometers, having as its center the right bank abutment of Doumer Bridge and running westward from the Red River to the Rapids Canal in the northeast.

In this particular case, no forces of the French Union shall be stationed less than 2 kilometers from this perimeter, on the inside thereof.

2. The perimeter of Haiphong shall be delimited by the Song-Van-Uc as far as Kim Thanh and a line running from the Song-Van-Uc 3 kilometers northeast of Kim Thanh to cut Road No. 18, 2 kilometers east of Mao-Khé. Thence a line running 3 kilometers north of Road 18 to Cho-Troi and a straight line from Cho-Troi to the Mong-Duong ferry.

3. A corridor contained between:

In the south, the Red River from Thanh-Tri to Bang-Nho, thence a line joining the latter point to Do-My (southwest of Kesat), Gia-Loc, and Tien Kieu;

In the north, a line running along the Rapids Canal at a distance of 1,500 meters to the north of the canal, passing 3 kilometers north of Pha-Lai and Seven Pagodas, and thence parallel to Road No. 18 to its point of intersection with the perimeter of Haiphong.

NOTE.—Throughout the period of evacuation of the perimeter of Hanoi the river forces of the French Union shall enjoy complete freedom of movement on the Song-Van-Uc. And the forces of the People's Army of Vietnam shall withdraw 3 kilometers south of the south bank of the Song-Van-Uc.

Boundary Between the Perimeter of Hanoi and the Perimeter of Haiduong

A straight line running from the Rapids Canal 3 kilometers west of Chi-ne and ending at Do-My (8 kilometers southwest of Kesat).

(b) *Central Vietnam*

Delineation of the Boundary of the Provisional Assembly Area of the Forces of the Vietnam People's Army South of the Col des Nuages Parallel

The perimeter of the central Vietnam area shall consist of the administrative boundaries of the provinces of Quang-Nagi and Binh-Dinh as they were defined before the hostilities.

(c) *South Vietnam*

Three provisional assembly areas shall be provided for the forces of the People's Army of Vietnam.

The boundaries of these areas are as follows:

1. Xuyen-Moc, Ham-Tan Area:

Western boundary: The course of the Song-Ray extended northwards as far as Road No. 1 to a point thereon 8 kilometers east of the intersection of Road No. 1 and Road No. 3.

Northern boundary: Road No. 1 from the above-mentioned intersection to the intersection with Route Communale No. 9 situated 27 kilometers west-south-west of Phanthiet and from that intersection a straight line to Kim Thanh on the coast.

2. Plaine des Joncs Area:

Northern boundary: The Vietnam-Cambodia frontier.

Western boundary: A straight line from Tong-Binh to Binh-Thanh.

Southern boundary: Course of the Fleuve Antérieur (Mekong) to 10 kilometers southeast of Cao Lanh. From that point, a straight line as far as Ap-My-Dien, and from Ap-My-Dien a line parallel to the 3 kilometers east and then south of the Tong Doc-Loc Canal, this line reaches My-Hanh-Dong and thence Hung-Thanh-My.

Eastern boundary: A straight line from Hung-Thanh-My running northwards to the Cambodian frontier south of Doi-Bao-Voi.

3. Point Camau Area:

Northern boundary: The Song-Cai-lon from its mouth to its junction with the Rach-Nuoc-Trong, thence the Rach-Nuoc-Trong to the bend 5 kilometers northeast of Ap-Xeo-La. Thereafter a line to the Ngan-Dua Canal and following that Canal as far as Vinh-Hung. Finally, from Vinh-Hung a north-south line to the sea.

GENEVA CONFERENCE—INDOCHINA

Final declaration, dated July 21, 1954, of the Geneva Conference on the problem of restoring peace in Indochina, in which the representatives of Cambodia, the Democratic Republic of Vietnam, France, Laos, the People's Republic of China, the State of Vietnam, the Union of Soviet Socialist Republics, the United Kingdom, and the United States of America took part.

[IC/43/Rev. 2, 21 July 1954, Original: French]

1. The Conference takes note of the agreements ending hostilities in Cambodia, Laos, and Vietnam and organizing international control and the supervision of the execution of the provisions of these agreements.

2. The Conference expresses satisfaction at the ending of hostilities in Cambodia, Laos, and Vietnam; the Conference expresses its conviction that the execution of the provisions set out in the present declaration and in the agreements on the cessation of hostilities will permit Cambodia, Laos, and Vietnam henceforth to play their part, in full independence and sovereignty, in the peaceful community of nations.

3. The Conference takes note of the declarations made by the Governments of Cambodia and of Laos of their intention to adopt measures permitting all citizens to take their place in the national community, in particular by participating in the next general elections, which, in conformity with the constitution of each of these countries, shall take place in the course of the year 1955, by secret ballot and in conditions of respect for fundamental freedoms.

4. The Conference takes note of the clauses in the agreement on the cessation of hostilities in Vietnam prohibiting the introduction into Vietnam of foreign troops and military personnel, as well as all kinds of arms and munitions. The Conference also takes note of the declarations made by the Governments of Cambodia and Laos of their resolution not to request foreign aid, whether in war material, in personnel, or in instructors, except for the purpose of the effective defense of their territory and, in the case of Laos, to the extent defined by the agreements on the cessation of hostilities in Laos.

5. The Conference takes note of the clauses in the agreement on the cessation of hostilities in Vietnam to the effect that no military base under the control of a foreign state may be established in the regrouping zones of the two parties, the latter having the obligation to see that the zones allotted to them shall not constitute part of any military alliance and shall not be utilized for the resumption of hostilities or in the service of an aggressive policy. The Conference also takes note of the declarations of the Governments of Cambodia and Laos to the effect that they will not join in any agreement with other states if this agreement includes the obligation to participate in a military alliance not in conformity with the principles of the Charter of the United Nations

or, in the case of Laos, with the principles of the agreement on the cessation of hostilities in Laos or, so long as their security is not threatened, the obligation to establish bases on Cambodian or Laotian territory for the military forces of foreign powers.

6. The Conference recognizes that the essential purpose of the agreement relating to Vietnam is to settle military questions with a view of ending hostilities and that the military demarcation line is provisional and should not in any way be interpreted as constituting a political or territorial boundary. The Conference expressed its conviction that the execution of the provisions set out in the present declaration and in the agreement on the cessation of hostilities creates the necessary basis for the achievement in the near future of a political settlement in Vietnam.

7. The Conference declares that, so far as Vietnam is concerned, the settlement of political problems, effected on the basis of respect for the principles of independence, unity and territorial integrity, shall permit the Vietnamese people to enjoy the fundamental freedoms, guaranteed by democratic institutions established as a result of free general elections by secret ballot. In order to insure that sufficient progress in the restoration of peace has been made, and that all the necessary conditions obtain for free expression of the national will, general elections shall be held in July 1956, under the supervision of an international commission composed of representatives of the member states of the International Supervisory Commission, referred to in the agreement on the cessation of hostilities. Consultations will be held on this subject between the competent representative authorities of the two zones from 20 July 1955 onward.

8. The provisions of the agreements on the cessation of hostilities intended to insure the protection of individuals and of property must be most strictly applied and must, in particular, allow everyone in Vietnam to decide freely in which zone he wishes to live.

9. The competent representative authorities of the northern and southern zones of Vietnam, as well as the authorities of Laos and Cambodia, must not permit any individual or collective reprisals against persons who have collaborated in any way with one of the parties during the war, or against members of such persons' families.

10. The Conference takes note of the declaration of the Government of the French Republic to the effect that it is ready to withdraw its troops from the territories of Cambodia, Laos, and Vietnam, at the request of the governments concerned and within periods which shall be fixed by agreement between the parties except in the cases where, by agreement between the two parties, a certain number of French troops shall remain at specified points and for a specified time.

11. The Conference takes note of the declaration of the French Government to the effect that for the settlement of all the problems connected with the reestablishment and consolidation of peace in Cambodia, Laos, and Vietnam, the French Government will proceed from the principle of respect for the independence and sovereignty, unity and territorial integrity of Cambodia, Laos, and Vietnam.

12. In their relations with Cambodia, Laos, and Vietnam, each member of the Geneva Conference undertakes to respect the sovereignty, the independence, the unity and the territorial integrity of the above-mentioned states, and to refrain from any interference in their internal affairs.

13. The members of the Conference agree to consult one another on any question which may be referred to them by the International Supervisory Commission, in order to study such measures as may prove necessary to insure that the agreements on the cessation of hostilities in Cambodia, Laos, and Vietnam are respected.

GENEVA CONFERENCE—INDOCHINA

DECLARATION BY THE ROYAL GOVERNMENT OF CAMBODIA

(Reference: Art. 3 of the final declaration)

[IC/44 Rev. 1, 21 July 1954, Original: French]

The Royal Government of Cambodia,

In the desire to insure harmony and agreement among the peoples of the kingdom,

Declares itself resolved to take the necessary measures to integrate all citizens, without discrimination, into the national community and to guarantee them the enjoyment of the rights and freedoms for which the constitution of the kingdom provides;

Affirms that all Cambodian citizens may freely participate as electors or candidates in general elections by secret ballot.

GENEVA CONFERENCE—INDOCHINA

DECLARATION BY THE ROYAL GOVERNMENT OF LAOS

(Reference: Art. 3 of the final declaration)

[IC/45 Rev. 1, 21 July 1954, Original: French]

The Royal Government of Laos,

In the desire to insure harmony and agreement among the peoples of the kingdom,

Declares itself resolved to take the necessary measures to integrate all citizens, without discrimination, into the national community and to guarantee them the enjoyment of the rights and freedoms for which the constitution of the kingdom provides;

Affirms that all Laotian citizens may freely participate as electors or candidates in general elections by secret ballot;

Announces, furthermore, that it will promulgate measures to provide for special representation in the royal administration of the Provinces of Phang Saly and Sam Neua during the interval between the cessation of hostilities and the general elections of the interests of Laotian nationals who did not support the royal forces during hostilities.

GENEVA CONFERENCE—INDOCHINA

DECLARATION BY THE ROYAL GOVERNMENT OF CAMBODIA

(Reference: Arts. 4 and 5 of the final declaration)

[IC/46/Rev. 2, July 21, 1954, Cambodia, Original: French]

The Royal Government of Cambodia is resolved never to take part in an aggressive policy and never to permit the territory of Cambodia to be utilized in the service of such a policy.

The Royal Government of Cambodia will not join in any agreement with other states, if this agreement carries for Cambodia the obligation to enter into a military alliance not in conformity with the principles of the Charter of the United Nations, or, as long as its security is not threatened, the obligation to establish bases on Cambodian territory for the military forces of foreign powers.

The Royal Government of Cambodia is resolved to settle its international disputes by peaceful means, in such a manner as not to endanger peace, international security, and justice.

During the period which will elapse between the date of the cessation of hostilities in Vietnam and that of the final settlement of political problems in this country, the Royal Government of Cambodia will not solicit foreign aid in war material, personnel, or instructors except for the purpose of the effective defense of the territory.

GENEVA CONFERENCE—INDOCHINA

DECLARATION OF THE ROYAL GOVERNMENT OF LAOS

(Arts. 4 and 5 of the final declaration)

[IC/47/Rev. 1, July 21, 1954, Original: French]

The Royal Government of Laos is resolved never to pursue a policy of aggression and will never permit the territory of Laos to be used in furtherance of such a policy.

The Royal Government of Laos will never join in any agreement with other states if this agreement includes the obligation for the Royal Government of Laos to participate in a military alliance not in conformity with the principles of the Charter of the United Nations or with the principles of the agreement on the cessation of hostilities or, unless its security is threatened, the obligation to establish bases on Laotian territory for military forces of foreign powers.

The Royal Government of Laos is resolved to settle its international disputes by peaceful means so that international peace and security and justice are not endangered.

During the period between the cessation of hostilities in Vietnam and the final settlement of that country's political problems, the Royal Government of Laos will not request foreign aid, whether in war material, in personnel, or in instructors, except for the purpose of its effective territorial defense and to the extent defined by the agreement on the cessation of hostilities.

GENEVA CONFERENCE—INDOCHINA

DECLARATION BY THE GOVERNMENT OF THE FRENCH REPUBLIC

(Reference: Art. 10 of the final declaration)

[IC/48 Rev. 1, July 21, 1954, original: French]

The Government of the French Republic declares that it is ready to withdraw its troops from the territory of Cambodia, Laos, and Vietnam, at the request of the governments concerned and within a period which shall be fixed by agreement between the parties, except in the cases where, by agreement between the two parties, a certain number of French troops shall remain at specified points and for a specified time.

GENEVA CONFERENCE—INDOCHINA

DECLARATION BY THE GOVERNMENT OF THE FRENCH REPUBLIC

(Reference: Art. 11 of the final declaration)

[IC/49 Rev. 1, July 21, 1954, original; French]

For the settlement of all the problems connected with the reestablishment and consolidation of peace in Cambodia, Laos, and Vietnam, the French Government will proceed from the principle of respect for the independence and sovereignty, the unity and territorial integrity of Cambodia, Laos, and Vietnam.

GENEVA CONFERENCE—INDOCHINA

DRAFT SUBMITTED BY THE DELEGATION OF THE STATE OF VIETNAM

(Amendment for insertion between Art. 11 and present Art. 12 of the declaration)

[IC/50, July 20, 1954, original: French]

The conference takes note of the declaration of the Government of the State of Vietnam undertaking: to make and support every effort to reestablish a real and lasting peace in Vietnam; not to use force to resist the procedures for carrying the cease-fire into effect, although it deems them to be inconsistent with the will of the nation; to pursue the achievement of the aspirations of the Vietnam people with all the means conferred upon it by the national independence and sovereignty solemnly recognized by France.

GENEVA CONFERENCE—INDOCHINA

AGREEMENT ON THE CESSATION OF HOSTILITIES IN LAOS

[IC/51, Rev. 1, July 20, 1954, Original: French]

Chapter I—Cease-fire and evacuation of foreign armed forces and foreign military personnel

Article 1

The commanders of the armed forces of the parties in Laos shall order and enforce the complete cessation of all hostilities in Laos by all armed forces under their control, including all units and personnel of the ground, naval, and air forces.

Article 2

In accordance with the principle of a simultaneous cease-fire throughout Indochina the cessation of hostilities shall be simultaneous throughout the territory of Laos in all combat areas and for all forces of the two parties.

In order to prevent any mistake or misunderstanding and to ensure that both the cessation of hostilities and the disengagement and movements of the opposing forces are in fact simultaneous.

(a) Taking into account the time effectively required to transmit the cease-fire order down to the lowest echelons of the combatant forces on both sides, the two parties are agreed that the complete and simultaneous cease-fire throughout the territory of Laos shall become effective at 8 hours (local time) on August 6, 1954. It is agreed that Pekin meantime shall be taken as local time.

(b) The Joint Commission for Laos shall draw up a schedule for the other operations resulting from the cessation of hostilities.

NOTE.—The cease-fire shall become effective 15 days after the entry into force of the present agreement.

Article 3

All operations and movements entailed by the cessation of hostilities and regrouping must proceed in a safe and orderly fashion:

(a) Within a number of days to be determined on the spot by the Joint Commission in Laos each party shall be responsible for removing and neutralizing mines, booby traps, explosives, and any other dangerous substance placed by it. In the event of its being impossible to complete the work of removal and neutralization in time, the party concerned shall mark the spot by placing visible signs there.

(b) As regards the security of troops on the move following the lines of communication in accordance with the schedule previously drawn up by the Joint Armistice Commission in Laos, and the safety of the assembly areas, detailed measures shall be adopted in each case by the Joint Armistice Commission in Laos. In particular, while the forces of one party are withdrawing by a line of communication passing through the territory of the other party (road or waterways) the forces of the latter party shall provisionally withdraw 2 kilometers on either side of such line of communication, but in such a manner as to avoid interfering with the movement of the civil population.

Article 4

The withdrawals and transfers of military forces, supplies, and equipment shall be effected in accordance with the following principles:

(a) The withdrawals and transfers of the military forces, supplies, and equipment of the two parties shall be completed within a period of 120 days from the day on which the armistice agreement enters into force.

The two parties undertake to communicate their transfer plans to each other, for information, within 25 days of the entry into force of the present agreement.

(b) The withdrawals of the Vietnamese People's Volunteers from Laos to Vietnam shall be effected by provinces. The position of those volunteers who were settled in Laos before the hostilities shall form the subject of a special convention.

(c) The routes for the withdrawal of the forces of the French Union and Vietnamese People's Volunteers in Laos from Laotian territory shall be fixed on the spot by the Joint Commission.

(d) The two parties shall guarantee that the withdrawals and transfers of all forces will be effected in accordance with the purposes of this agreement, and that they will not permit any hostile action or take action of any kind whatever which might hinder such withdrawals or transfers. The parties shall assist each other as far as possible.

(e) While the withdrawals and transfers of the forces are proceeding, the two parties shall not permit any destruction or sabotage of any public property or any attack on the life or property of the local civilian population. They shall not permit any interference with the local civil administration.

(f) The Joint Commission and the International Commission shall supervise the implementation of measures to insure the safety of the forces during withdrawal and transfer.

(g) The Joint Commission in Laos shall determine the detailed procedures for the withdrawals and transfers of the forces in accordance with the above-mentioned principles.

Article 5

During the days immediately preceding the cease-fire each party undertakes not to engage in any large-scale operation between the time when the agreement on the cessation of hostilities is signed at Geneva and the time when the cease-fire comes into effect.

Chapter II—Prohibition of the introduction of fresh troops, military personnel, armaments, and munitions

Article 6

With effect from the proclamation of the cease-fire the introduction into Laos of any reinforcements of troops or military personnel from outside Laotian territory is prohibited.

Nevertheless, the French high command may leave a specified number of French military personnel required for the training of the Laotian National Army in the territory of Laos; the strength of such personnel shall not exceed 1,500 officers and noncommissioned officers.

Article 7

Upon the entry into force of the present agreement, the establishment of new military bases is prohibited throughout the territory of Laos.

Article 8

The High Command of the French forces shall maintain in the territory of Laos the personnel required for the maintenance of two French military establishments, the first at Seno and the second in the Mekong Valley, either in the province of Vientiane or downstream from Vientiane.

The effectives maintained in these military establishments shall not exceed a total of 3,500 men.

Article 9

Upon the entry into force of the present agreement and in accordance with the declaration made at the Geneva Conference by the Royal Government of Laos on July 20, 1954, the introduction into Laos of armaments, munitions, and military equipment of all kinds is prohibited, with the exception of a specified quantity of armaments in categories specified as necessary for the defense of Laos.

Article 10

The new armaments and military personnel permitted to enter Laos in accordance with the terms of article 9 above shall enter Laos at the following points only: Luang-Prabang, Xieng-Khouang, Vientiane, Seno, Paksé, Savannakhet, and Tchépone.

Chapter III—Disengagement of the forces—Assembly areas—Concentration areas

Article 11

The disengagement of the armed forces of both sides, including concentration of the armed forces, movements to rejoin the provisional assembly areas allotted to one party and provisional withdrawal movements by the other party, shall be completed within a period not exceeding 15 days after the cease fire.

Article 12

The Joint Commission in Laos shall fix the site and boundaries: Of the five provisional assembly areas for the reception of the Vietnamese People's Volunteer Forces; of the five provisional assembly areas for the reception of the French forces in Laos; of the 12 provisional assembly areas, 1 to each province, for the reception of the fighting units of "Pathet Lao." The forces of the Laotian National Army shall remain in situ during the entire duration of the operations of disengagement and transfer of foreign forces and fighting units of "Pathet Lao."

Article 13

The foreign forces shall be transferred outside Laotian territory as follows:

(1) French forces: The French forces will be moved out of Laos by road (along routes laid down by the Joint Commission in Laos) and also by air and inland waterway;

(2) Vietnamese People's Volunteer forces: These forces will be moved out of Laos by land, along routes and in accordance with a schedule to be determined by the Joint Commission in Laos in accordance with principle of simultaneous withdrawal of foreign forces.

Article 14

Pending a political settlement, the fighting units of "Pathet Lao," concentrated in the provisional assembly areas, shall move into the Provinces of Phongsaly and Sam-Neua, except for any military personnel who wish to be demobilized where they are. They will be free to move between these two Provinces in a corridor along the frontier between Laos and Vietnam bounded on the south by the line Sop Kin, Na Mi-Sop Sang, Muong Son.

Concentration shall be completed within 120 days from the date of entry into force of the present agreement.

Article 15

Each party undertakes to refrain from any reprisals or discrimination against persons or organizations for their activities during the hostilities and also undertakes to guarantee their democratic freedoms.

Chapter IV—Prisoners of war and civilian internees

Article 16

The liberation and repatriation of all prisoners of war and civilian internees detained by each of the two parties at the coming into force of the present agreement shall be carried out under the following conditions:

(a) All prisoners of war and civilian internees of Laotian and other nationalities captured since the beginning of hostilities in Laos, during military operations or in any other circumstances of war and in any part of the territory of Laos, shall be liberated within a period of 30 days after the date when the cease-fire comes into effect.

(b) The term "civilian internees" is understood to mean all persons who, having in any way contributed to the political and armed strife between the two parties, have

been arrested for that reason or kept in detention by either party during the period of hostilities.

(c) All foreign prisoners of war captured by either party shall be surrendered to the appropriate authorities of the other party, who shall give them all possible assistance in proceeding to the destination of their choice.

Chapter V—Miscellaneous

Article 17

The commanders of the forces of the two parties shall ensure that persons under their respective commands who violate any of the provisions of the present agreement are suitably punished.

Article 18

In cases in which the place of burial is known and the existence of graves has been established, the commander of the forces of either party shall, within a specified period after the entry into force of the present agreement, permit the graves service of the other party to enter that part of Laotian territory under his military control for the purpose of finding and removing the bodies of deceased military personnel of that party, including the bodies of deceased prisoners of war.

The Joint Commission shall fix the procedures by which this task is carried out and the time limits within which it must be completed. The commanders of the forces of each party shall communicate to the other all information in his possession as to the place of burial of military personnel of the other party.

Article 19

The present agreement shall apply to all the armed forces of either party. The armed forces of each party shall respect the territory under the military control of the other party, and engage in no hostile act against the other party.

For the purpose of the present article the word "territory" includes territorial waters and air space.

Article 20

The commander of the forces of the two parties shall afford full protection and all possible assistance and cooperation to the Joint Commission and its joint organs and to the International Commission and its inspection teams in the performance of the functions and tasks assigned to them by the present agreement.

Article 21

The costs involved in the operation of the Joint Commission and its joint groups and of the International Commission and its inspection teams shall be shared equally between the two parties.

Article 22

The signatories of the present agreement and their successors in their functions shall be responsible for the observance and enforcement of the terms and provisions thereof. The commanders of the forces of the two parties shall, within their respective commands, take all steps and make all arrangements necessary to insure full compliance with all the provisions of the present agreement by all military personnel under their command.

Article 23

The procedures laid down in the present agreement shall, whenever necessary, be examined by the commanders of the two parties and, if necessary, defined more specifically by the Joint Commission.

Chapter VI—Joint Commission and International Commission for Supervision and Control in Laos

Article 24

Responsibility for the execution of the agreement on the cessation of hostilities shall rest with the parties.

Article 25

An International Commission shall be entrusted with control and supervision over the application of the provisions of the agreement on the cessation of hostilities in Laos. It shall be composed of representatives of the following states: Canada, India, and Poland. It shall be presided over by the representative of India. Its headquarters shall be at Vientiane.

Article 26

The International Commission shall set up fixed and mobile inspection teams, composed of an equal number of officers appointed by each of the above-mentioned states.

The fixed teams shall be located at the following points: Paksé, Seno, Tchépone, Vientiane, Xieng-Khonang, Phongsaly, Sophao (Province of Samneua). These points of location may, at a later date, be altered by agreement between the Government of Laos and the International Commission.

The zones of action of the mobile teams shall be regions bordering the land frontiers of Laos. Within the limits of their zones of action they shall have the right to move freely and shall receive from the local civil and military authorities all facilities they may require for the fulfillment of their tasks (provisons of personnel, access to documents needed for supervision, summoning of witnesses needed for holding inquiries, the security and freedom of movement of the inspection teams, etc. * * *). They shall have at their disposal such modern means of transport, observation, and communication as they may require.

Outside the zones of action defined above, the mobile teams may, with the agreement of the command of the party concerned, move about as required by the tasks assigned to them by the present agreement.

Article 27

The International Commission shall be responsible for supervising the execution by the parties of the provisions of the present agreement. For this purpose it shall fulfill the functions of control, observation, inspection, and investigation connected with the implementation of the provisions of the agreement on the cessation of hostilities, and shall in particular—

(a) Control the withdrawal of foreign forces in accordance with the provisions of the agreement on the cessation of hostilities and see that frontiers are respected;

(b) Control the release of prisoners of war and civilian internees;

(c) Supervise, at ports and airfields and along all the frontiers of Laos, the implementation of the provisions regulating the introduction into Laos of military personnel and war materials;

(d) Supervise the implementation of the clauses of the agreement on the cessation of hostilities relating to rotation of personnel and to supplies for French Union security forces maintained in Laos.

Article 28

A Joint Commission shall be set up to facilitate the implementation of the clauses relating to the withdrawal of foreign forces.

The Joint Commission shall form joint groups, the number of which shall be decided by mutual agreement between the parties.

The Joint Commission shall facilitate the implementation of the clauses of the agreement on the cessation of hostilities relating to the simultaneous and general cease fire in Laos for all regular and irregular armed forces of the two parties.

It shall assist the parties in the implementation of the said clauses; it shall insure liaison between them for the purpose of preparing and carrying out plans for the implementation of the said clauses; it shall endeavor to settle any disputes between the parties arising out of the implementation of these clauses. The joint groups shall follow the forces in their movements and shall be disbanded once the withdrawal plans have been carried out.

Article 29

The Joint Commission and the joint groups shall be composed of an equal number of representatives of the commands of the parties concerned.

Article 30

The International Commission shall, through the medium of the inspection teams mentioned above, and as soon as possible, either on its own initiative or at the request of the Joint Commission, or of one of the parties, undertake the necessary investigations, both documentary and on the ground.

Article 31

The inspection teams shall submit to the International Commission the results of their supervision, investigation, and observations; furthermore, they shall draw up such special reports as they may consider necessary or as may be requested from them by the Commission. In the case of a disagreement within the teams, the findings of each member shall be transmitted to the Commission.

Article 32

If an inspection team is unable to settle an incident or considers that there is a violation or a threat of a serious violation, the International Commission shall be informed; the latter shall examine the reports and findings of the inspection teams and shall inform the parties of the measures which should be taken for the settlement of the incident, ending of the violation or removal of the threat of violation.

Article 33

When the Joint Commission is unable to reach an agreement on the interpretation of a provision or on the appraisal of a fact, the International Commission shall be informed of the disputed question. Its recommendations shall be sent directly to the parties and shall be notified to the Joint Commission.

Article 34

The recommendations of the International Commission shall be adopted by majority vote, subject to the provisions contained in article 35. If the votes are equally divided, the chairman's vote shall be decisive.

The International Commission may make recommendations concerning amendments and additions which should be made to the provisions of the agreement on the cessation of hostilities in Laos, in order to ensure more effective execution of the said agreement. These recommendations shall be adopted unanimously.

Article 35

On questions concerning violations, or threats of violations, which might lead to a resumption of hostilities, and in particular, (a) refusal by foreign armed forces to effect the movements provided for in the withdrawal plan; (b) violation or threat of violation of the country's integrity by foreign armed forces; the decisions of the International Commission must be unanimous.

Article 36

If one of the parties refuses to put a recommendation of the International Commission into effect, the parties concerned or the Commission itself shall inform the members of the Geneva Conference.

If the International Commission does not reach unanimity in the cases provided for in article 35, it shall transmit a majority report and one or more minority reports to the members of the conference.

The International Commission shall inform the members of the conference of all cases in which its work is being hindered.

Article 37

The International Commission shall be set up at the time of the cessation of hostilities in Indochina in order that it may be able to fulfill the tasks prescribed in article 27.

Article 38

The International Commission for Supervision and Control in Laos shall act in close cooperation with the International Commissions in Vietnam and Cambodia.

The secretaries-general of these three commissions shall be responsible for coordinating their work and for relations between them.

Article 39

The International Commission for Supervision and Control in Laos may, after consultation with the International Commissions in Cambodia and Vietnam, having regard to the development of the situation in Cambodia and Vietnam, progressively reduce its activities. Such a decision must be reduced unanimously. These recommendations shall be adopted unanimously.

Chapter VII

Article 40

All the provisions of the present Agreement, save paragraph (a) of article 2, shall enter into force at 24 hours (Geneva time) on 22 July 1954.

Article 41

Done in Geneva (Switzerland) on 20 July 1954, at 24 hours, in the French language.

GENEVA CONFERENCE—INDOCHINA

AGREEMENT ON THE CESSATION OF HOSTILITIES IN CAMBODIA

[IC/52, 21 July, 1954 Original: French]

Chapter I—Principles and conditions governing execution of the Cease-Fire

Article 1

As from July 23, 1954 at 0800 hours (Pekin mean time) complete cessation of all hostilities throughout Cambodia shall be ordered and enforced by the commanders of the armed forces of the two parties for all troops and personnel of the land, naval and air forces under their control.

Article 2

In conformity with the principle of a simultaneous cease-fire throughout Indochina, there shall be a simultaneous cessation of hostilities throughout Cambodia, in all the combat areas and for all the forces of the two parties.

To obviate any mistake or misunderstanding and to ensure that both the ending of hostilities and all other operations arising from cessation of hostilities are in fact simultaneous,

(a) due allowance being made for the time actually required for transmission of the cease-fire order down to the lowest echelons of the combatant forces of both sides, the two parties are agreed that the complete and simultaneous cease-fire throughout the territory of Cambodia shall become effective at 8 hours (local time) on 7 August 1954. It is agreed that Pekin mean time shall be taken as local time.

(b) Each side shall comply strictly with the timetable jointly agreed upon between the parties for the execution of all operations connected with the cessation of hostilities.

Article 3

All operations and movements connected with the execution of the cessation of hostilities must be carried out in a safe and orderly fashion.

(a) Within a number of days to be determined by the commanders of both sides, after the cease-fire has been achieved, each party shall be responsible for removing and neutralizing mines, booby traps, explosives, and any other dangerous devices placed by it. Should it be impossible to complete removal and neutralization before departure, the party concerned will mark the spot by placing visible signs. Sites thus cleared of mines and any other obstacles to the free movement of the personnel of the International Commission and the Joint Commission shall be notified to the latter by the local military commanders.

(b) Any incidents that may arise between the forces of the two sides and may result from mistakes or misunderstandings shall be settled on the spot so as to restrict their scope.

(c) During the days immediately preceding the cease-fire each party undertakes not to engage in any large-scale operation between the time when the agreement on the cessation of hostilities is signed at Geneva and the time when the cease-fire comes into effect.

Chapter II—Procedure for the withdrawal of the foreign armed forces and foreign military personnel from the territory of Cambodia

Article 4

1. The withdrawal outside the territory of Cambodia shall apply to:

(a) the armed forces and military combatant personnel of the French Union:

(b) the combatant formations of all types which have entered the territory of Cambodia from other countries or regions of the peninsula:

(c) all the foreign elements (or Cambodians not natives of Cambodia) in the military formations of any kind or holding supervisory functions in all political or military, administrative, economic, financial or social bodies, having worked in liaison with the Vietnam military units.

2. The withdrawals of the forces and elements referred to in the foregoing paragraphs and their military supplies and materials must be completed within 90 days reckoning from the entry into force of the present agreement.

3. The two parties shall guarantee that the withdrawals of all the forces will be effected in accordance with the purposes of the agreement, and that they will not permit any hostile action or take any action likely to create difficulties for such withdrawals. They shall assist one another as far as possible.

4. While the withdrawals are proceeding, the two parties shall not permit any destruction or sabotage of public property or any attack on the life or property of the civilian population. They shall not permit any interference with the local civil administration.

5. The Joint Commission and the International Supervisory Commission shall supervise the execution of measures to insure the safety of the forces during withdrawal.

6. The Joint Commission in Cambodia shall determine the detailed procedures for the withdrawals of the forces on the basis of the above-mentioned principles.

Chapter III—Other questions

A. The Khmer Armed Forces, Natives of Cambodia

Article 5

The two parties shall undertake that within 30 days after the cease-fire order has been proclaimed, the Khmer resistance forces shall be demobilized on the spot; simultaneously, the troops of the Royal Khmer Army shall abstain from taking any hostile action against the Khmer resistance forces.

Article 6

The situation of these nationals shall be decided in the light of the declaration made by the delegation of Cambodia at the Geneva Conference, reading as follows:

"The Royal Government of Cambodia, in the desire to ensure harmony and agreement among the peoples of the kingdom, declares itself resolved to take the necessary measures to integrate all citizens, without discrimination, into the national community and to guarantee them the enjoyment of the rights and freedoms for which the constitution of the kingdom provides; affirms that all Cambodian citizens may freely participate as electors or candidates in general elections by secret ballot."

No reprisals shall be taken against the said nationals or their families, each national being entitled to the enjoyment, without any discrimination as compared with other nationals, of all constitutional guaranties concerning the protection of persons and property and democratic freedoms.

Applicants therefor may be accepted for service in the regular army or local police formations if they satisfy the conditions required for current recruitment of the army and police corps.

The same procedure shall apply to those persons who have returned to civilian life and who may apply for civilian employment on the same terms as other nationals.

B. Ban on the Introduction of Fresh Troops, Military Personnel, Armaments and Munitions, Military Bases

Article 7

In accordance with the declaration made by the delegation of Cambodia at 2400 hours on July 20, 1954, at the Geneva Conference of Foreign Ministers:

"The Royal Government of Cambodia will not join in any agreement with other states, if this agreement carries for Cambodia the obligation to enter into a military alliance not in conformity with the principles of the Charter of the United Nations, or, as long as its security is not threatened, the obligation to establish bases on Cambodian territory for the military forces of foreign powers.

"During the period which will elapse between the date of the cessation of hostilities in Vietnam and that of the final settlement of political problems in this country, the Royal Government of Cambodia will not solicit foreign aid in war material, personnel, or instructors except for the purpose of the effective defense of the territory."

C. Civilian Internees and Prisoners of War—Burial

Article 8

The liberation and repatriation of all civilian internees and prisoners of war detained by each of the two parties at the coming into force of the present agreement shall be carried out under the following conditions:

(a) All prisoners of war and civilian internees of whatever nationality, captured since the beginning of hostilities in Cambodia during military operations or in any other circumstances of war and in any part of the territory of Cambodia shall be liberated after the entry into force of the present armistice agreement.

(b) The term "civilian internees" is understood to mean all persons who, having in any way contributed to the political and armed struggle between the two parties, have been arrested for that reason or kept in detention by either party during the period of hostilities.

(c) All foreign prisoners of war captured by either party shall be surrendered to the appropriate authorities of the other party, who shall give them all possible assistance in proceeding to the destination of their choice.

Article 9

After the entry into force of the present agreement, if the place of burial is known and the existence of graves has been established, the Cambodian commander shall, within a specified period, authorize the exhumation and removal of the bodies of deceased military personnel of the other party, including the bodies of prisoners of war or

personnel deceased and buried on Cambodian territory.

The Joint Commission shall fix the procedures by which this task is to be carried out and the time limit within which it must be completed.

Chapter IV—Joint Commission and International Commission for Supervision and Control in Cambodia

Article 10

Responsibility for the execution of the agreement on the cessation of hostilities shall rest with the parties.

Article 11

An International Commission shall be responsible for control and supervision of the application of the provisions of the agreement on the cessation of hostilities in Cambodia. It shall be composed of representatives of the following States: Canada, India, and Poland. It shall be presided over by the representative of India. Its headquarters shall be at Phnom-Penh.

Article 12

The International Commission shall set up fixed and mobile inspection teams, composed of an equal number of officers appointed by each of the above-mentioned States.

The fixed teams shall be located at the following points: Phnom-Penh, Kompong-Cham, Kratié, Svay-Rieng, Kampot. These points of location may be altered at a later date by agreement between the Government of Cambodia and the International Commission.

The zones of action of the mobile teams shall be the regions bordering on the land and sea frontiers of Cambodia. The mobile teams shall have the right to move freely within the limits of their zones of action, and they shall receive from the local civil and military authorities all facilities they may require for the fulfillment of their tasks (provision of personnel, access to documents needed for supervision, summoning of witnesses needed for inquiries, security and freedom of movement of the inspection teams, etc.). They shall have at their disposal such modern means of transport, observation and communication as they may require.

Outside the zones of action defined above, the mobile teams may, with the agreement of the Cambodian command, move about as required by the tasks assigned to them under the present agreement.

Article 13

The International Commission shall be responsible for supervising the execution by the parties of the provisions of the present agreement. For this purpose it shall fulfill the functions of control, observation, inspection, and investigation connected with the implementation of the provisions of the agreement on the cessation of hostilities, and shall in particular: (a) control the withdrawal of foreign forces in accordance with the provisions of the agreement on the cessation of hostilities and see that frontiers are respected; (b) control the release of prisoners of war and civilian internees; (c) supervise, at ports and airfields and along all the frontiers of Cambodia, the application of the Cambodian declaration concerning the introduction into Cambodia of military personnel and war materials on grounds of foreign assistance.

Article 14

A joint commission shall be set up to facilitate the implementation of the clauses relating to the withdrawal of foreign forces.

The joint commission may form joint groups the number of which shall be decided by mutual agreement between the parties.

The joint commission shall facilitate the implementation of the clauses of the agreement on the cessation of hostilities relating to the simultaneous and general cease-fire in Cambodia for all regular and irregular armed forces of the two parties.

It shall assist the parties in the implementation of the said clauses; it shall insure liaison between them for the purpose of preparing and carrying out plans for the implementation of the said clauses; it shall endeavor to settle any disputes between the parties arising out of the implementation of these clauses. The joint commission may send joint groups to follow the forces in their movements; such groups shall be disbanded once the withdrawal plans have been carried out.

Article 15

The joint commission shall be composed of an equal number of representatives of the commands of the parties concerned.

Article 16

The International Commission shall, through the medium of the inspection teams mentioned above and as soon as possible, either on its own initiative or at the request of the Joint Commission or of one of the parties, undertake the necessary investigations both documentary and on the ground.

Article 17

The inspection teams shall transmit to the International Commission the results of their supervision, investigations, and observations; furthermore, they shall draw up such special reports as they may consider necessary or as may be requested from them by the Commission. In the case of a disagreement within the teams, the findings of each member shall be transmitted to the Commission.

Article 18

If an inspection team is unable to settle an incident or considers that there is a violation or threat of a serious violation, the International Commission shall be informed; the Commission shall examine the reports and findings of the inspection teams and shall inform the parties of the measures to be taken for the settlement of the incident, ending of the violation or removal of the threat of violation.

Article 19

When the Joint Commission is unable to reach agreement on the interpretation of a provision or on the appraisal of a fact, the International Commission shall be informed of the disputed question. Its recommendations shall be sent directly to the parties and shall be notified to the Joint Commission.

Article 20

The recommendations of the International Commission shall be adopted by a majority vote, subject to the provisions of article 21. If the votes are equally divided, the Chairman's vote shall be decisive.

The International Commission may make recommendations concerning amendments and additions which should be made to the provisions of the agreement on the cessation of hostilities in Cambodia, in order to insure more effective execution of the said agreement. These recommendations shall be adopted unanimously.

Article 21

On questions concerning violations, or threats of violations, which might lead to a resumption of hostilities, and in particular, (a) refusal by foreign armed forces to effect the movements provided for in the withdrawal plan, (b) violation or threat of violation of the country's integrity by foreign armed forces, the decisions of the International Commission must be unanimous.

Article 22

If one of the parties refuses to put a recommendation of the International Commission into effect, the parties concerned or the Commission itself shall inform the members of the Geneva Conference.

If the International Commission does not reach unanimity in the cases provided for in article 21, it shall transmit a majority report and one or more minority reports to members of the Conference.

The International Commission shall inform the members of the Conference of all cases in which its work is being hindered.

Article 23

The International Commission shall be set up at the time of the cessation of hostilities in Indochina in order that it may be able to perform the tasks prescribed in article 13.

Article 24

The International Commission for Supervision and Control in Cambodia shall act in close cooperation with the International Commissions in Vietnam and Laos.

The Secretaries-General of those three Commissions shall be responsible for coordinating their work and for relations between them.

Article 25

The International Commission for Supervision and Control in Cambodia may, after consultation with the International Commissions in Vietnam and in Laos, and having regard to the development of the situation in Vietnam and in Laos, progressively reduce its activities. Such a decision must be adopted unanimously.

Chapter V—Implementation

Article 26

The commanders of the forces of the two parties shall insure that persons under their respective commands who violate any of the provisions of the present agreement are suitably punished.

Article 27

The present agreement on the cessation of hostilities shall apply to all the armed forces of either party.

Article 28

The commanders of the forces of the two parties shall afford full protection and all possible assistance and cooperation to the Joint Commission and to the International Commission and its inspection teams in the performance of their functions.

Article 29

The Joint Commission, composed of an equal number of representatives of the commands of the two parties, shall assist the parties in the implementation of all the clauses of the agreement on the cessation of hostilities, insure liaison between the two parties, draw up plans for the implementation of the agreement, and endeavor to settle any dispute arising out of the implementation of the said clauses and plans.

Article 30

The costs involved in the operation of the Joint Commission shall be shared equally between the two parties.

Article 31

The signatories of the present agreement on the cessation of hostilities and their successors in their functions shall be responsible for the observance and enforcement of the terms and provisions thereof. The commanders of the forces of the two parties shall, within their respective commands, take all steps and make all arrangements necessary to insure full compliance with all the provisions of the present agreement by all personnel under their command.

Article 32

The procedures laid down in the present agreement shall, whenever necessary, be examined by the commands of the two parties and, if necessary, defined more specifically by the Joint Commission.

Article 33

All the provisions of the present agreement shall enter into force at 00 hours (Geneva time) on 23 July 1954.

Done at Geneva on 20 July 1954.

TA-QUANG-BUU,
Vice Minister of National Defense of the Democratic Republic of Vietnam

(For the commander in chief of the units of the Khmer resistance forces and for the commander in chief of the Vietnamese military units).

GEN. NHIEK TIOULONG

(For the commander in chief of the Khmer national armed forces).

APPENDIX II

BIOGRAPHIES OF VARIOUS PERSONAGES IN INDOCHINA

VIETNAMESE

Bao Dai, Chief of State of Vietnam

Prior to the end of World War II, Bao Dai was Emperor of Annam, then a protectorate of France. He ascended the imperial throne of Annam in 1926 at the age of 12. In 1945 Bao Dai abdicated the throne, and the empire of Annam became extinct as a political entity. For a few months in 1945 and 1946 Bao Dai served as "supreme adviser" for the government of Ho Chi Minh, then established in Hanoi, but in the spring of 1946 he went to Hong Kong, where he remained for several years in exile. In 1949 he concluded an agreement with France to establish the State of Vietnam, of which he is sovereign, ruling with the title of Chief of State. His wife, the Empress Nam Phuong, has been living in France for some time with their children. Bao Dai has also been living in France since April 1954.

Ngo Dinh Diem, President of the Council of Ministers of the State of Vietnam

Born in Hue in 1901, Diem belongs to an old and distinguished Mandarin family of central Vietnam. After graduating from the Hanoi School of Administration, he entered the mandarinate and rose rapidly to become Province Chief in 1930. In this capacity he is said to have used very drastic measures to repress revolutionary activities in his province. In 1932 he headed a commission to investigate charges of corruption in the Annamese administration, and in 1933 he became Minister of the Interior under the new Emperor of Annam, Bao Dai.

When the reform program he believed in was shelved, Diem promptly resigned and went into political retirement, part of which he spent in Japan.

After the March 9, 1945, Japanese coup in Indochina, Diem turned down an offer to form a new government under Bao Dai (sponsored by the Japanese) and a later offer to serve as Ho Chi Minh's Minister of Interior.

The Vietminh arrested Diem in September 1945 and released him in March 1946, at which time he went into hiding in Hanoi. From 1947 to 1949 he played an active role in negotiations for Bao Dai's return to power. Recognized throughout Vietnam as the most important true nationalist, Diem was able to rally much support to what seemed then to be the answer to Vietnamese nationalist aspirations.

However, Diem favored a bilateral alliance with France (rather than membership in the French Union as then conceived), and opposed the continued presence of French Army, police, and security systems as incompatible with Vietnamese sovereignty.

In disagreement with the policies of Bao Dai and the French authorities, Diem consequently refused Bao Dai's offer to lead or support a Vietnamese government set up in accordance with the Franco-Vietnamese agreements of March 8, 1949.

Diem went into self-imposed exile in France, Belgium, the United States (2 years). However, in June 1954, after the fall of Dien Bien Phu, and while the Geneva Conference was still in process, Diem was given full powers by Chief of State Bao Dai (then residing in France), and returned to form a new government which took office July 6, 1954, and was soon faced with implementation of the Geneva agreement of July 22, 1954, which partitioned Vietnam at the 17th parallel, and started the flow of refugees from the Vietminh area in the north, to free Vietnam in the south.

Family: His father, Ngo Dinh Khai, was Minister of Rites at the Imperial Court of Annam and Lord Chamberlain to the Emperor Thanh Thai. His eldest brother, Ngo Dinh Khoi, Province Chief of Quang Nam Province, was killed by the Viet Minh in August 1945, together with the latter's son Ngo Dinh Huan. Another brother is Ngo Dinh Thuc, Bishop of Vinh Long, South Vietnam, one of the best-known members of the Vietnamese Catholic hierarchy. The three remaining brothers are Ngo Dinh Nhu, an archivist and paleographer by profession and a prominent Catholic nationalist, Ngo Dinh Diem's alter ego at the Presidential Palace Ngo Dinh Luyen, who has served Bao Dai at various times and now acts as a roving ambassador and his brother's eyes and ears in Paris, Geneva, Cannes, and elsewhere; and Ngo Dinh Can, who, with the mother, still lives in Hue.

Diem is a bachelor, an intellectual and Catholic.

Tran Van Do, Minister of Foreign Affairs

Brother of the Vietnamese Ambassador to the United States, Tran Van Chuong, Dr. Do belongs to a distinguished family of Cochinchinese origin, long resident in north Vietnam.

He studied medicine in France, practiced in Saigon, and was mobilized as first chief of the Vietnamese Army Medical Corps with the rank of colonel.

Dr. Do's present position is his first government post.

Nguyen Van Hinh, major general, chief of staff, Vietnamese National Army

Born in 1916, Hinh is the son of former President Tam. During World War II, General Hinh served as a lieutenant colonel in the French Air Force. After 1949 he held a number of positions in the Vietnamese Government. He was appointed brigadier general in the Vietnamese National Army and named to his present position as chief of staff in 1952. His wife, a Frenchwoman, is active in the social-welfare work of the Vietnamese National Army.

Prince Buu Loc, High Commissioner of Vietnam in France

Born August 22, 1914, at Hue, central Vietnam. Member of the former imperial family of Annam, descendant of the Emperor Gialong and cousin of His Majesty Bao Dai. Doctor of political and economic science. Chairman of Vietnamese delegation of 1948–49 conference preceding signature of the Franco-Vietnamese accords of March 8, 1949. Director of the Imperial Cabinet at Dalat, 1949–50. Director of the Imperial Cabinet at Paris, 1950–52. First High Commissioner of Vietnam to France, 1952–53: Elevated to personal rank of Ambassador of Vietnam July 27, 1952, and presented credentials to President of French Union on September 16, 1952. Special imperial envoy charged with the organization of the Vietnamese National Congress, October 1953. Designated by Bao Dai to form government December 1953, he assumed office January 1954. His government was replaced by the Diem government in July 1954. Buu Loc is currently High Commissioner of Vietnam in France.

Nguyen Van Tam, former President of the Government of Vietnam and Minister of the Interior

Former President Tam rose to that position through a life of Government service, having worked for many years in the French colonial administration of prewar Cochinchina (now South Vietnam). Following the reestablishment of French control in Cochinchina in 1945, he became active in the now defunct Cochinchina separatist movement, which advocated the establishment of an independent Republic of Cochinchina.

In 1950 Tam became Director of the National Security Service (Sureté) of Vietnam. Rising through a series of appointments, he was named in June 1952 to the post of President of the Government (equivalent to Prime Minister), which position he held along with the post of Minister of the Interior until his government was replaced by that of Buu Loc in January 1954.

Former President Tam was born in Cochinchina in 1895. He is a widower. Of his children, one daughter remains unmarried, and his son, Gen. Nguyen Van Hinh, is chief of staff of the Vietnamese National Army.

Tran Van Huu, former President of the Council of Ministers

Born in 1896 at Vinh Long, South Vietnam, Tran Van Huu studied in Saigon and then went to North Africa, where he received the diploma of agricultural engineer. Returning to Indochina, he obtained posts first in the agricultural service and then in the Credit Foncier, a land-mortgage bank. He was elected to various consultative councils in the prewar period, and also served in the provisional government of the Republic of Cochinchina. In July 1949, he became Governor of South Vietnam in Bao Dai's government, continuing to serve under Nguyen Phan Long, and then was appointed President of the Council of Ministers, Foreign Minister, and Minister of National Defense on May 8, 1950. As Prime Minister, he led the Vietnamese delegation to the San Francisco Conference of 1951. In June of 1952 he was replaced as Prime Minister by Nguyen Van Tam.

Nguyen Van Xuan, general in the French Army

Xuan is the only Vietnamese officer to have attained the rank of general in the French Army.

Born in 1892, in Cochinchina, he was the first Vietnamese admitted to the Paris Ecole Polytechnique. He became a French citizen, fought in World War I, and distinguished himself at Verdun.

In World War II, he was chief of the 3e bureau, and served in the military section of the Ministry of Colonies. He was imprisoned briefly during the French retreat in 1940, was released, and returned to Indochina in 1941. In 1942, he was subdirector of artillery of Cochinchina-Cambodia (as an officer in the French Army).

He refused the Japanese offer of head of the Ministry of War in a puppet government. After the March 1945 coup, he was imprisoned in Hanoi until the Japanese surrender.

He refused to take part in the Viet Minh Government of August 1945.

General Xuan organized native armies in Cambodia and Laos. He headed the Cochinchina delegations to the Dalat conferences, in 1946.

In 1946, he became Minister of National Defense, and Vice President of the first provisional government under Nguyen Van Tinh, then Vice President under Le Van Hoach in 1947, and finally President and Minister of Interior and of National Defense of the Provisional Central Government in 1948. He participated in the Baie d'Along meeting and worked untiringly for the return of Bao Dai.

In 1949, he retired as President of the provisional government and became Vice President and Minister of National Defense in the Bao Dai government of 1949, and was promoted to major general in the French Army.

He has been out of office since January 1950, but is still active in politics.

General Xuan has a French wife. He speaks and understands almost no Vietnamese as he has spent most of his life in France.

Nguyen Phan Long, former President of the Council of Ministers

Long, journalist and President of the Council of Ministers in 1950, is a veteran politician who has become one of Vietnam's elder statesmen. Born in Hanoi in 1889 of Cochinchinese parents, Long has spent most of his life in the south. After attending college in Hanoi, he was employed in the French Customs Administration and then founded the conservative Constitutionalist Party. He subsequently became the owner of a boys' school, which he sold in 1930 to enter the newspaper field, gaining the reputation of being one of the country's best journalists. He served on various consultative councils in the prewar period, and presumably continued his newspaper work during World War II and afterward. After 6 months as Foreign Minister under Bao Dai, Long assumed the premiership in January 1950, but friction with the conservative nationalist Dai Viet party contributed to the cabinet's downfall a few months later. Since then he has not actively participated in journalism or in politics, although he was a delegate to the national congress held in mid-October 1953.

Long is a conservative nationalist who at first favored Ho Chi Minh, but who changed his attitude completely, backing Bao Dai when Ho's Communist allegiance became clear. He now has little following among Vietnamese, and his age is a deterring factor on his future role. He speaks excellent French. He belongs to a sect of the Cao Dai religion considered heretical by the Cao Dai pope.

Phan Huy Quat, former Minister of National Defense in Long, Tam, and Buu Loc governments

Born July 1, 1909, in the Province of Ha-Tinh, Central Vietnam. Son of a landowner who was also a doctor of letters. Admitted to the Faculté de Médecine of the University of Hanoi in 1930 and received his doctoral degree in 1936 with a gold medal for the excellence of his thesis. He was one of the founders and the first elected president of the Association Générale des Etudiants of the University of Hanoi in 1936; in this capacity he devoted himself to bringing together students from north and south Vietnam. From 1936 to 1945 he engaged in the general practice of medicine in Hanoi as well as in teaching at the Faculté de Médicine of the university, where he remained a counselor of the Association Générale des Etudiants, which he had helped found. He acquired a distinguished reputation as a parasitologist. Secretary of State for National Education in the Bao Dai government of National Union, 1949. Minister of National Defense in the Nguyen van Long government, 1950. Minister of National Defense in the former Nguyen van Tam and Buu Loc governments, he holds no government post at present. He is one of the leaders of the Dai Viet Party, a conservative nationalist group with greatest strength in north Vietnam.

Le Huu Tu, Roman Catholic bishop of Phat Diem

Tu was the senior bishop and dominating personality in the rice-rich area of Phat Diem-Bui Chu in the Tonkin Delta now located in the Viet Minh zone. A native of central Vietnam, Tu was born in 1897 and presumably was educated in Indochina. Named bishop in 1945, he functioned from 1945 to 1951 virtually as an independent ruler of an autonomous state populated by some 1,800,000 people, less than 25 percent of whom are Catholic, exercising civil and religious control and commanding his own armed forces. In 1951 Phat Diem again became an administrative part of north Vietnam.

Although rabidly anti-Communist, Tu supported the anti-French, anticolonial stand of Ho Chi Minh, but succeeded in maintaining a position of autonomy during the period from 1945 to 1949 when Phat Diem was part of Viet Minh-occupied territory, Tu then strongly backed Bao Dai as the only counter to the Communist Ho Chi Minh, and was a member of the organizing committee of the National Congress called by the Chief of State to define Vietnamese independence and future relationship with France. Since the Viet Minh occupation of his bishopric, Tu has been active in encouraging Catholics to flee south to the free zone.

Pham Cong Tac, Cao Dai Pope

Pham Cong Tac is father superior, or pope, of the principal sect of the Cao Dai religion, the largest and most significant indigenous Vietnamese cult. Formally established in 1926, Cao Dai combines elements of Buddhism, Confucianism, Christianity, Taoism, and Animism, that is, the principal religions practiced in Indochina. Tac is temporal ruler of most of Tay Ninh Province and parts of others adjacent to it, and is nominally the commander in chief of the sizable Cao Dai paramilitary forces.

Tac was born in 1893, in Tan An Province in south Vietnam. There is no information concerning his education or family background. Before the founding of the Cao Dai religion Tac was a clerk in the customs service in Saigon, but since 1925 he has devoted himself to various posts within the Cao Dai hierarchy, becoming pope in 1936. Because of secret relations with the Japanese during World War II, Tac was exiled to Madagascar by the French. When he returned in 1946 he found the Holy See at Tay Ninh and the surrounding area ruled by the Viet Minh. Since that time Tac has been strongly opposed to the Communists, and long supported Bao Dai. He refused to allow the Cao Dai to be represented officially in the Vietnamese Government until recently, but he was a member of the organizing committee of the Bao Dai-sponsored national congress, any many Cao Daists participated in the local elections of 1953. In May 1954 the pope sent a personal, friendly message to Ho Chi Minh advocating peace and collaboration.

Tran Van Tuyen, Cao Dai leader

Tuyen was born in 1913 in Hanoi, where he also attended university, receiving a law degree in 1942. During the early forties he was engaged in educational activities and as province chief of Hai Duong, east of Hanoi. In 1946 he fled to China, following several months of association with the Ho Chi Minh regime. In 1947 he joined Bao Dai, then in exile in Hong Kong, working closely with the latter. Following the establishment of the present state of Vietnam in 1949, he accepted various cabinet posts, but has remained outside the Government since the summer of 1951.

In 1950 he was converted to Cao Daism, a religious sect active in south Vietnam. At present he is political adviser to the Cao Daist armed forces, in which he himself holds the rank of lieutenant colonel. Tran Van Tuyen was an assistant secretary general of the October 1953 national congress called by Bao Dai.

General Le Van Vien (known as Bay Vien)

Commander of the Binh-Xuyen military forces which at one time supported the Viet Minh, but in 1948 switched to support Bao Dai.

The Binh Xuyen has a large interest in the Cholon gambling concession, and currently has control of the police force and Vietnamese Sûreté in the Saigon-Cholon area.

Le Van Vien is president of the Vietnam Front for National Salvation and honorary president of the Committee for Aid to Evacuees.

Tran Van Soai, commander of Hoa Hao forces

Tran Van Soai is titular commander of the paramilitary forces organized in July 1947 by the Hoa Hao, a south Vietnamese political-religious sect, to rid their areas of Viet Minh troops. Soai holds the military rank of general, given by the French partly as a reward and partly for his continued cooperation. Hoa Hao opposition to the Viet Minh arises from the Viet Minh's assassination of the founder of the sect in 1947. Soai has largely rid the region under his control of Viet Minh elements, and collects his own taxes, administers his own justice, and, with the help of the French military, trains his own troops.

Soai is a native of Lon Xugen Province, south Vietnam, and is about 60 years old. He has a long police record of thefts and assaults, dating from his days as river-boat skipper or pirate and head of a gang of local ruffians.

The Hoa Hao was represented on the organizing committee of the Bao Dai-sponsored national congress in October 1953.

Dr. Pham Van Ngoi, secretary general of the south Vietnam Socialist Party

In 1947, he was a councilor of the Cochinchinese Government of Le Van Hoach. He, his wife, and 16-year-old son were kidnapped by the Viet Minh and returned unharmed in exchange for certain prisoners held by the Vietnamese.

In 1953, Ngoi favored a constitution, universal suffrage, and a provisional national assembly in the controlled zone.

At present, Ngoi advocates a government uniting all elements and with democratic and socialist orientation. Such a government's first job would be to set up a provisional national assembly, as widely representative as possible, and to organize general elections with a minimum of delay. Ngoi also favors calling a national congress of leading personalities from north and south to form a government of true patriots who would work to reunite Vietnam.

Buu Hoi, scientist, research scholar at the National Center of Scientific Research, Paris

Born in Hue in 1915. Member of the imperial family (cousin of Bao Dai) and descendant of a long line of poets, writers, high court officials.

Following secondary schooling in Hanoi (with Buu Loc, Nguyen Duong Dinh, General Giap), Buu Hoi followed courses for a while at the University of Hanoi, then left for Paris at the age of 20 to devote himself to scientific research, specializing in organic chemistry. He is credited with noteworthy achievements in research on leprosy and tuberculosis.

After attending the Ecole Polytechnique, he joined the staff as instructor and in 1943 entered the Institute of Radium in Paris where he is currently chief of the Laboratory of Organic Chemistry.

FRENCH

Paul Ely, Commissioner General of France and Commander in Chief of French Union forces in Indochina

Born in 1897 at Salonika, Macedonia, General Ely graduated from St. Cyr, fought in World War I, attended the French war college, and was appointed, in 1939, to the army general staff.

He was assigned to Oran in November 1942. After the liberation, he was made assistant director of the FFI, and then brigadier general in charge of infantry.

From 1945 to 1948 he was successively assistant director, then director of the military cabinet in the Ministry of War, commander of the 7th military region at Dijon, and chief of staff to the inspector general of land forces.

General Ely headed the French mission to the Standing Group of the Atlantic Pact Group, and subsequently replaced General Bradley as head of the group. In 1953 he was appointed chief of staff for land forces.

General Ely was chief of the French mission which visited Washington in 1954 to discuss Indochina affairs. After the fall of Dien Bien Phu, General Ely, accompanied by Generals Salan and Pelissier, undertook a 2 weeks' survey of the situation in Indochina and reported back to Paris.

General Ely returned to Indochina in June 1954, to assume his present dual role of Commissoner General of France and Commander in Chief of French Union forces in Indochina.

Raoul Salan, Deputy Commander in Chief of French Union forces in Indochina

Born in 1899, General Salan is a graduate of St. Cyr. He fought in World War I and later commanded an infantry company in Indochina. He became a specialist on Indochina in the Ministry of Foreign Affairs in Paris, where he remained until World War II, when he fought under General de Lattre, spearheading the thrust into Germany.

In 1945 General Salan served under General Leclerc as Commander in Chief of French forces in China and North Indochina. After negotiating the withdrawal of the Chinese occupation troops in Indochina, he took part in preparing the March 6, 1946, agreement with Ho Chi Minh. In 1947 he was put in command of French troops in northern Indochina, and launched an offensive in the Tonkin region after Ho Chi Minh violated the modus vivendi agreements signed at Fontainebleau.

Salan's assignment to Paris as director of colonial troops, in 1949, lasted for only a brief period, for General de Lattre recalled him to Indochina, in 1950, to serve as his operational assistant.

After General de Lattre's death, General Salan was made commander in chief of ground, air, and naval forces in Indochina until May 1953 when, replaced by General Navarre, he returned to France as inspector general of territorial defense, and member of the high council of the armed forces.

He came back to Indochina in May 1954 after the fall of Dien Bien Phu, as a member of General Ely's survey mission. Shortly thereafter he assumed his present post.

General Salan was awarded the American Distinguished Service Cross, as well as several high French and foreign decorations.

Jean Daridan, Deputy Commissioner General of France in Indochina, with rank of Ambassador

Born in 1906, M. Daridan specialized in paleography before entering the diplomatic service. From 1932 to 1943 he served in Athens, Rome, Prague, at the League of Nations, and in Belgrade. In 1943, he became chief of cabinet to the delegate general of the French Committee for National Liberation.

After serving in the FFI, he became counselor of embassy in Chungking in 1945, then counselor at Nanking, chargé d'affaires in Bangkok, and finally counselor in Washington from 1947 until July 1954, when he was appointed to his present post in Indochina.

Jean Sainteny, Delegate General of France in North Vietnam

Born in 1907 at Vesinet. Mobilized in 1939 in the land forces, then in air reconnaissance, he later joined the resistance. After escaping from the gestapo, he participated in planning for the Normandy landings, and on several occasions crossed enemy lines to bring vital information to General Patton.

In 1945, he headed French mission No. 5, with headquarters in Kunming, whose purpose it was to combat the Japanese and plan the return of the French to Indochina.

Sainteny entered Hanoi in August 1945, following the Japanese surrender. He was named Commissioner of the Republic of France for Tonkin and North Annam, and negotiated the March 6, 1946, agreement with Ho Chi Minh which enabled General Leclerc's forces to enter Hanoi.

Sainteny returned to Paris in 1947 after being seriously wounded in Hanoi at the outbreak of hostilities between the Viet Minh and the French in December 1946.

He returned to Indochina in his present capacity on August 27, 1954.

M. Sainteny is the son-in-law of M. Albert Sarraut, former Governor General in Indochina and now President of the French Union Assembly.

LAOTIAN

Sisavang Vong, King of Laos

King Sisavang Vong probably has had a longer reign than any other living sovereign, having ascended the throne of the now defunct Kingdom of Luang Prabang in 1904. In 1945, under pressure from the dissident Lao Issara (Free Laos) independence movement, he renounced his throne, but assumed it again in 1945, when the French reestablished control in Indochina. In more recent years, the poor health of the King has thrown increasing responsibilities upon the crown prince, Savang Vatthana.

Savang Vatthana, Crown Prince

Crown Prince Savang Vatthana, born in 1907, is the eldest of King Sisavang Vong. He was educated in law in France. He is married and is the father of five children. The poor health of the King throws a considerable burden upon the crown prince, although he has no formal political status whatever, except as heir to the throne. Prince Savang has visited the United States several times. He has headed the Laotian delegation at the San Francisco Conference of 1951.

Prince Souvanna Phouma, President of the Council of Ministers, Minister of Information

Prince Souvanna Phouma, born in northern Laos in 1901, was educated in engineering in France. He was active in the postwar Lao Issara (Free Laos) movement, but was one of the most prominent of the advocates of a return to the constituted government. He has held cabinet posts since February 1950 and was appointed President of the Council of Ministers (that is, Prime Minister) in the fall of 1951. He attended the San Francisco Conference of September 1951 as a member of the Laotian delegation.

Prince Souvanna Phouma is a half brother of the Laotian dissident leader, Prince Souphanouvong. His wife, a Franco-Laotian, is very active in governmental and educational affairs.

Phouy Sananikone, Vice President of the Council of Ministers, Minister of Foreign Affairs, of the Interior

In the troubled postwar years Phouy remained consistently loyal to the royal family of Laos. Educated entirely in Laos, he rose through the ranks of the civil service. In February 1950 he became President of the Council of Ministers (that is, Prime Minister), but resigned from this position in the fall of 1951. It was in this capacity that he attended the 1951 San Francisco Conference. A younger brother, Ngon Sananikone, is Laotian Minister to the Court of St. James. He recently headed the Lao delegation to the Geneva Conference.

Prince Souphanouvong, Laotian dissident

When the Viet Minh invaded Laos in the spring of 1953, it masked its aggression as a "Laotian independence movement," purportedly under the leadership of Prince Souphanouvong.

Souphanouvong was born in 1912, and is the half-brother of Prince Souvanna Phouma, present Prime Minister of Laos. He was educated in engineering at Hanoi and in France, and served for many years in Annam (now Central Vietnam) in the Administration of Public Works in Indochina. Following World War II, he was prominent in the Lao Issari (Free Laos) movement, but tended to diverge from that movement in that he advocated close collaboration with the Viet Minh. When other leaders of the Free Laos movement rallied to the present government in 1949, Souphanouvong remained apart, and became increasingly close to the Viet Minh. He is perhaps influenced in this orientation by his Vietnamese wife.

CAMBODIAN

Norodom Sihanouk Varman, King of Cambodia

King Norodom was born in Cambodia in 1922 and educated in French schools in Indochina and Paris. He ascended the throne in 1941. During World War II he was kept a virtual prisoner in his palace by the Japanese forces of occupation in Pnom Penh. After the war he went to France where he enrolled in cavalry school and achieved a brilliant record. The King returned to Cambodia in 1947 and instituted reforms which changed the government from an absolute to a constitutional monarchy under French protection. In 1953, the King won additional prerogatives from France, assuring the nation of full sovereignty. In the same year he led the newly reorganized Cambodian Army against the Viet Minh raiders along the borders.

Penn-Nouth, Prime Minister

The Prime Minister was born in Pnom Penh in 1906 and was educated in Cambodia. He was an official with an outstanding record in the old Cambodian mandarinate. Since the end of World War II he has served in numerous governmental posts, including that of Minister of Finance, Governor of the city of Pnom Penh, Minister Without Portfolio, President of the Council of Ministers, and Acting Minister of Defense. In January 1953 he was appointed Prime Minister in the Royal Cabinet, a post which he has held ever since except for a period of several months' temporary retirement due to illness. After the King, Penn Nouth is regarded as the first citizen of Cambodia.

LETTER OF TRANSMITTAL

HON. ALEXANDER WILEY,
Chairman, Committee on Foreign Relations, United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: Transmitted herewith is my report on a study mission to France, Germany, and Italy during August and September of this year. Since my return, events have moved very rapidly in Europe. I refer particularly to the developments at the recent London-Paris conferences. In my report, I have placed my observations in Europe largely in the context of these conferences since the results which they have produced are of great significance to this country.

The United States, I know, is fully aware of the fine contribution which you personally made in connection with your conferences with the leading statesmen of Western Europe during the crucial days when the search was on for alternatives to the European Defense Community. I should like, again, to take this occasion to call attention to the work of officers of the Department of State and other United States employees in the countries of Europe which I visited. Too often the excellent service on behalf of our country which is being rendered by these men and women goes unappreciated.

I also want to commend Mr. Francis R. Valeo, whom you assigned from the staff of the Committee on Foreign Relations to accompany me. His assistance, cooperation, and knowledge were of great value in carrying out the purposes of the mission.

Sincerely yours,

MIKE MANSFIELD.

NOVEMBER 4, 1954.

PROSPECTS FOR WESTERN UNITY

1. INTRODUCTORY

American foreign policy has sought to encourage the integration of Western Europe so that the region might cooperate more effectively within the larger association of the North Atlantic Community. To this end, we have provided billions of dollars in aid programs and committed American Armed Forces to the Continent of Europe.

This policy has been based on the belief that in international groupings of this kind the United States and the European nations can best provide for the common security essential to the prospering in freedom of each participating country. To a great extent, the immediate need for the groupings grew out of the towering threat to free nations posed by the postwar policies of Soviet communism.

Recently, our policy with respect to Europe has passed through a major crisis, precipitated by the rejection of the European Defense Community. The action of the French Parliament in this connection brought us face to face with a fundamental question. Were the forces of cohesion among the free nations, particularly in Western Europe, strong enough to prevent a return to age-old and now probably suicidal rivalries?

For us, the significance of the question was clear. If the impulse toward unity was not sufficiently strong, then the premise of our policy was in error. To put it another way, if we could not count on regional groupings to provide a means for our security and progress in common with other free nations, the "agonizing reappraisal," the search for alternatives, would have been inevitable.

To some extent, the question has been answered by the recent London-Paris conferences. No sooner had EDC fallen than the Western nations and particularly those in the core of Europe—Great Britain, France, Western Germany, Italy, and the Benelux countries—set about erecting a substitute. A new formula has now been found.

These conferences have restored the promise of continuing Western unity. That in itself is an accomplishment of great importance. Perhaps even more significant, however, is the speed with which this has happened. It is a demonstration of the vitality of the idea of Western cooperation. It is also an indication of the basic soundness of the bipartisan policies of this country which have supported this idea for almost a decade.

It seems to me important, however, to reiterate that the results of the London-Paris conferences constitute a promise, not a fulfillment. These conferences have made available a new plan for giving effect to Western unity. The plan may prove more acceptable and, in the long run, more effective than the one it replaced—that is, EDC.

For the present, however, all that we have is a blueprint. The building must go forward. If a sound structure is to be produced and if it is to be lived in, so to speak, by the Western nations, the same mutual understanding and national forbearance which made possible the success of the London-Paris conferences must continue. In this way the partnership idea in foreign policy, advanced by President Eisenhower some months ago, can become the foundation of our relations with our allies.

2. THE RESULTS OF THE LONDON-PARIS CONFERENCES

The accords reached at London and Paris are primarily concerned with the manner in which Western Germany is to be brought into and retained in the community of free nations. They provide for the return of sovereignty to that country, German and Italian adherence to the Brussels Treaty of 1948, and German admission into the North Atlantic Organization.

The Germans will raise a national army of 12 divisions and establish air and naval defense forces as their contribution to the common defense of the West. This is a principal difference between the present accords and the EDC concept. Under the latter, the Germans would also have rearmed. The national identity of their forces, however, as in the case of other continental nations, would have been submerged in an integrated European army in order to minimize the possibilities of a resurgence of nationalistic militarism.

The London-Paris accords seek the same end by different means. Armies of each of the continental countries retain their national identity but the powers of the NATO commander to control them are extended. Moreover, maximum levels of forces are established and these levels are to be maintained by a system of international inspection. There is also provision for the control of arms production. In the latter connection, the Germans forswear the manufacture of biological and atomic weapons, guided missiles, large naval vessels, submarines, and bombers. They also undertake not to resort to arms to change the existing frontiers or to achieve unification with Eastern Germany.

As a further safeguard, Great Britain commits four divisions and a tactical air force to the Continent. These forces are to be withdrawn only with the consent of a majority of the Brussels Treaty nations. For our part, the Secretary of State promised to recommend to the President that we retain armed forces in Europe.

3. SIGNIFICANCE OF THE LONDON-PARIS CONFERENCES

The need for the restoration of German sovereignty has long been recognized not only in this country but throughout Europe. It is almost 10 years since the end of World War II. Japan, which was defeated after Germany, has long since regained control of her affairs. A continuance of foreign control over Germany could only serve to encourage nationalistic resentments in a new generation of Germans which is now coming of age. It would mean, moreover, an indefinite prolongation of the occupation regime which is costly not only to Germany but to ourselves.

On the question of rearmament of Germany, there has been less unanimity of view, particularly in Europe. Doubts of the wisdom of this course persist in minority parties throughout Europe, including Germany. These are not solely "Communist doubts," the purposes of which are clear—to keep a defenseless Western Germany soft for eventual conquest by Communist legions from East Germany and elsewhere. They are for the most part the doubts of sincere people who twice in a generation have seen European civilization brought to the edge of destruction by war. The grim reminders of this recent past are still to be seen in many cities of Europe. A decade of rebuilding has not obliterated the scars of war.

One can appreciate these fears. The fact is, however, that the present leaders of free Europe along with our own recognize that the continued dependence of Germans primarily on the defense forces of the occupying powers, rather than on their own, constitutes a greater invitation to a third world war than the plan of defensive rearmament that is now proposed.

The policy of the United States in this respect has long been established. During the last session of the Congress it was reiterated and reinforced when the Senate passed a resolution by a unanimous vote calling on the President to take steps "to restore sovereignty to Germany and to enable her to contribute to the maintenance of international peace and security."

The accords reached at London and Paris reflect an awareness of the risks that are inherent in rearmament as well as the need for common defense of the West. It is a credit to the participating continental nations that they agreed to accept maximum limitations on armaments, production controls, and the vesting of greater authority over their forces in the NATO commander. Faithfully carried out, these arrangements should minimize the danger of unilateral action by any Western European country. They should also permit the effective use of the various national forces in integrated defense operations. The pledge of Western Germany not to seek a rectification of existing frontiers by force offers further assurance that the intent of these accords is solely defensive.

Perhaps no single factor was more important to the success of the conferences than the British pledge to retain armed forces in Europe. This pledge represents a historic decision by which the British people have relinked their destiny with the Continent. Its immediate significance lies in the reassurance it gives to France against a dominant Germany. It may prove, in this respect, decisive in French ratification of the accords. At the time of my visit to Europe, the absence of such a pledge was regarded by many observers as a basic cause of the rejection of EDC.

By bringing the question of EDC to a decision in the Assembly, the French Government has also contributed to the cause of Western unity. There are many in Europe who will argue that EDC was a better approach to the problem of integration than what has emerged from the London-Paris conferences. Few, however, would contend that the long delay in facing a decision on that plan led to anything but a spreading paralysis in the Western community. If continued it ultimately might have resulted in a return to chaotic nationalistic rivalries. By forcing a decision on what could not be obtained, France's Premier, M. Mendes-France, made it possible to explore the possibilities of what might be obtained.

In citing the role of Germany, the United Kingdom, and France, at the London-Paris conferences, I do not mean to ignore that of other European countries, nor of our own. The conferences, however, dealt with matters which were preponderantly European. Even more specifically they dealt with the problem growing out of the interaction of the policies of three powers—Germany, the United Kingdom, and France. In such circumstances, the best solutions, and perhaps the only possible solutions, were those that could be found by the Europeans themselves. The most effective contribution which the United States could have made was auxiliary, and the Secretary of State made it, with helpful suggestions and pledges of continuing American support.

4. THE PROSPECTS FOR WESTERN UNITY

Before the accords reached at London and Paris can take effect, various agreements and protocols must be ratified. In the case of those extending the Brussels Treaty of 1948 to include Germany and Italy, 5 other nations are involved.[1] With respect to the

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[1] United Kingdom, France, Belgium, the Netherlands, and Luxembourg.

admission of Germany to NATO, 14 nations must approve.[2] At first glance, this may appear to be a formidable gauntlet for the accords to run. The problem of ratification, however, is likely to boil down to the situation and the attitudes that prevail inside Germany, France, and to some extent Italy. The leaders of the governments of these three countries have all cast their lot for the plan of Western unity that has emerged from the London-Paris conferences. The question is largely whether or not this concept and its promise will outweigh conflicting attitudes based on traditional national fears, real or imagined nationalistic interests and the attraction of more extreme plans of European unity, as well as the divisive efforts of international communism. A factor less clearly related to ratification, but in my opinion of the greatest importance, is the economic situation that may exist in all Europe in the months ahead. A slackening in the economic progress of the various countries could result in one or more of them pursuing policies designed to protect their immediate well-being regardless of the ultimate cost of such policies to themselves or the West.

The prospects in Germany

Chancellor Konrad Adenauer brought back from the London-Paris conferences three results of particular importance to his country. He obtained assurance of a prompt restoration of German sovereignty, admission to the Brussels Treaty Organization and NATO, and the right to build a German army. In the immediate situation in Germany, the first two accomplishments are probably the most significant. Restoration of sovereignty should serve to reduce the restlessness under continued foreign control which was causing some Germans to look eastward. Admission to the Brussels Treaty Organization and NATO has the same effect in another way; it is an acknowledgement of Germany's international equality and its right to full membership in the Western community. As for the reestablishment of a national army, there is little surface enthusiasm for this project in Germany at the present time. This attitude may change rapidly, however, as the military forces take form.

What Germany has obtained at London and Paris is similar in substance to what would have been provided through the EDC approach. The problems of securing ratification of the present accords are also similar to those previously encountered. Principal opposition is likely to center on the theme of "unification first." A considerable body of opinion supports the view that unification with Eastern Germany should be the primary aim of German foreign policy. It has not been discouraged by the obstacles which the Soviet Union has repeatedly placed in the way of unification. On the contrary, this opinion has probably been stimulated by recent Communist tactics which give the appearance of being conciliatory in nature.

Support for the "unification first" idea in Germany is compounded of many elements. There are, for example, strongly nationalistic sentiments, particularly in Berlin, which veer in this direction. There are commercial groups which look to the East for markets and raw materials. There are those who visualize Germany as an independent neutralist or activist third force in central Europe. There are, finally, the Communists, presently few in number in Western Germany, who seek to link Germany with the international totalitarian movement. These opposition forces can find issues in the London-Paris accords, and in some cases are already doing so. They could object, for example, to the prohibitions placed on certain arms manufacturing in Germany, the powers given to the NATO commander over the German army, and particularly the Saar settlement. The latter may be an especially effective issue for the opposition. Under the terms of the settlement, the Saar is "Europeanized," and the special economic prerogatives of France are maintained. This status, however, is made subject to a plebiscite of the inhabitants of the Saar, who are preponderantly German.

Chancellor Adenauer prevailed against his opposition in the past in securing ratification of EDC. The question is whether or not he can succeed again. There are indications that the Chancellor has lost some political support since his great victory in the national elections of 1953. The defections of Otto John and Karl Franz Schmidt-Wittmark are not without significance in terms of the appeal of the "unification first" idea, nor can the endorsement of this concept by four former German Premiers be ignored.

A principal asset on the side of ratification will be the favorable economic situation in Germany, provided that it is maintained. Recovery under Adenauer has been remarkable. Agricultural and industrial activity is at a high level, the currency is stable, and, in general, living conditions are moderately good. This "prosperity" has been due primarily to the hard work, ability, and perseverance of the German people. It has depended heavily, however, first on American economic aid and more recently on an enormous expansion in foreign trade. At the time of my visit to Germany there was some evidence of impending economic difficulties, some reports of dissatisfaction in the ranks of labor.

The most decisive factor in the outcome of the ratification issue may be the leadership of Chancellor Adenauer himself. He has been in recent years the personification of the ideal of Western unity. He has labored indefatigably, courageously, and understandingly to bring it to realization. His influence with the German people in this respect has been enormous. He led them once to the acceptance of the concept as expressed in EDC. It will not be easy, however, for him to repeat this accomplishment.

The prospects in France

EDC was voted on in the French Parliament 27 months after it had been signed. During that period three French governments, preceding the present Government headed by Mendes-France, held office. All were pledged to support EDC. Yet, all had hesitated to bring the issue to a vote in Parliament.

At the Brussels Conference last August, Mendes-France sought amendments to EDC which would have enabled his government to support the measure. He was unable to obtain the consent of the other signatories to his proposed changes. Subsequently, he brought the question of ratification to a vote in Parliament without approval or disapproval. EDC was defeated on August 30, 1954, by a vote of 319 to 264.

Whatever the merits of the EDC concept, and there were many, the vote on ratification had the effect of ending the vacillation in French foreign policy and the paralysis in the international relations of Western Europe. It spurred action leading to the London-Paris conferences and a fresh approach to the problem of European integration.

The agreements which have resulted from these conferences have a better chance of gaining French acceptance than EDC. Most important, perhaps, the British pledge to keep forces on the Continent helps to neutralize fears in France of a possible resurgence of German militarism. Further assurances are contained in the arms-manufacture controls, the provision for inspected maximum levels of forces, the extension of the NATO commander's powers, and the promise by Germany not to resort to a military rectification of the frontiers. Finally, substitution of national armies for a European army as had been proposed in EDC, and the Saar settlement, if it is accepted by Germany, should increase the receptivity to the accords among more nationalistic French groups. That the prospects for ratification are good is indicated by the 350-to-113 vote of confidence given to Mendes-France on his return from the London Conference. Furthermore, the French Premier has assured prompt consideration of the new accords. They are scheduled for debate in the Assembly during the month of December.

If the agreements are finally approved, it will be due in no small measure to the change in political climate in France in recent months. Without presuming to discuss the merits of any particular measure, the fact is that the Mendes-France government has replaced the drift and dodge which formerly existed with a program of action in both foreign and domestic matters. The issue of the war in Indochina has been faced. So too has the issue of the archaic economic structure. These are basic problems that have long been recognized throughout France as associated with the country's indecisiveness in European affairs. Few have had the courage, however, to face them in the past. That these questions—and particularly the latter—are now being dealt with by the Mendes-France government suggests a renewed vigor in French political life. It may promise further important contributions from France to the common progress of Western Europe.

The prospects in Italy

Italy did not ratify EDC. The measure was kept from a vote in Parliament, at first, apparently, pending a settlement of the Trieste question. When it later became evident that ratification in France was highly doubtful, EDC was held back as successive Italian Governments sought to deal with more pressing domestic issues.

The settlement of the Trieste dispute in an agreement signed by Yugoslavia and Italy on October 5, 1954, should remove a possible obstacle to ratification of the present accords. However, full and effective participation of Italy in the Western community is inseparable from the political and economic situation that prevails inside the country. The great strength enjoyed by the Christian-Democratic Party under Premier Alcide De Gasperi from 1948 to 1953 no longer exists. At present the Government headed by Premier Mario Scelba is based on a coalition of Christian-Democrats, Liberals, Republicans, and Socialists. It has commanded only a scant majority in the Chamber of Deputies. Communist and allied groups whose opposition to any form of Western integration has been automatic, polled over 35 percent of the vote in the national elections of 1953. There are also extreme nationalist elements who may combine with the Communists in an effort to forestall acceptance of the London-Paris accords.

Apart from the political question of ratification, the capacity of Italy to participate effectively in the progress of Western unity is conditioned by the economic problems which have long plagued the peninsula. These include chronic unemployment and underemployment, an antiquated and inequitable economic structure, and the backwardness of the southern Provinces.

Since the end of the war efforts have been made to deal with these problems. Standing out as positive achievements are the slow but tangible progress of the land reform in

[2] Belgium, Canada, Denmark, France, Greece, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Turkey, United Kingdom, and the United States.

the south which is coupled with a 12-year development plan for that region, and the rising level of industrial activity which has already reached 50 percent above that of 1938. Much of this progress is related to the stimulation of $1.5 billion in economic assistance extended by this country since 1948. This aid program, however, has now come practically to a close.

5. CONCLUDING COMMENTS

The signing of the London-Paris accords has restored the promise of the continued cooperation of the free nations both within Western Europe and in the North Atlantic region. Ratification of these accords is the next step; it is not, however, the last.

Whether this step is taken and, if taken, whether it will lead to genuine security and progress will depend on the policies that are pursued from now on by this country and other free nations. The need for certain policy measures is clearly evident. Together with other nations we must support the principle of German unification and explore any reasonable possibility of achieving it. We must, as the President has tried to do, champion the cause of peace in a war-weary Europe and continue to search for practical means to reduce the burden of armaments. The United States and the Western nations must perfect and build their individual and common strength. This strength is measurable not only in terms of armaments but in the vigor of their beliefs and the stability of their economies.

In the latter connection, it is essential that we not only perfect the structure of integrated Western defense but that we reenforce the economic base on which it rests. Failure in this respect would invite Communist penetration on a massive scale. The maintenance of strong economies is partly a national problem and each nation must discharge those responsibilities which are uniquely its own. In some respects, however, it is also a common European problem and, in a larger sense, a problem of the Western community.

The level of economic activity and growth in recent years has been high in most Western nations. We must act now to see that it continues that way. If we do not, the totalitarian forces which have been blunted once again by the promise of the London-Paris accords will find new means of penetration.

A primary need, it would appear to me, is to push forward the further economic integration of Western Europe. In the apparently successful Coal and Steel Community there exists a workable pattern for progress of this kind. Other basic European industries—transport, power, and communications, for example—may be susceptible to similar treatment. Of a more general nature are the problems posed by the tariff and currency barriers which separate the European countries. Progress toward economic integration in Western Europe will of course be difficult. This does not make it any less essential.

The reponsibility for action along these lines rests preponderantly with the free European nations themselves acting in concert. Europe has come a long way from the days when it depended on the United States for economic survival. Free Europeans no less than ourselves would resent a continuance of this dependence. To say this, however, is not to ignore the continuing interest of this country in European integration. There are undoubtedly other ways, more appropriate to present conditions, by which the United States might directly encourage this process. There are also less-direct methods related to the trade, foreign exchange, and investment relationships among the nations of the North Atlantic Treaty Organization.

The immediate need, therefore, would seem to me to be for the Western nations to give serious consideration to convening one or more special economic conferences. Such conferences might serve to define the problems which must be overcome if the nations of Western Europe and the North Atlantic Community are to maintain sound economies. They could also point the way to common action in meeting these problems in the same "partnership" spirit of mutual understanding that characterized the London-Paris conferences. The groundwork for such economic conferences has in large part been laid by continuing organizations like the European Payments Union and the Organization for European Economic Cooperation.

What is at stake here is not only the economic well-being of Europe and ourselves. In the last analysis, it is the security and progress of civilization in a world at peace.

CALL OF THE ROLL

Mr. KNOWLAND. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. KNOWLAND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

RESOLUTION OF CENSURE

The VICE PRESIDENT. The Chair lays before the Senate the unfinished business.

The Senate resumed the consideration of the resolution (S. Res. 301) to censure the junior Senator from Wisconsin.

Mr. WELKER. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from Idaho will state it.

Mr. WELKER. May I inquire of the distinguished Vice President what the arrangements are for the allocation of time? Who is allocating the time, how much time remains, and will there be sufficient time in which to interrogate Senators, if they will yield?

The VICE PRESIDENT. Five hours and thirty-five minutes have been used by the majority; 1 hour and 19 minutes have been used by the minority. The time between yesterday, when the division of time began to run, and 3 o'clock this afternoon is supposed to be equally divided.

Mr. KNOWLAND. Mr. President, I yield one-half hour, or so much time as may be needed, to the distinguished senior Senator from Connecticut [Mr. BUSH].

Mr. BUSH. Mr. President, all my life I have looked upon membership in the United States Senate as the greatest office to which one could aspire. Even as a schoolboy, I acquired a respect for the Senate that has stayed with me through the years.

So, despite the fact that many others have longer service behind them, I venture to think that few, if any, hold the Senate higher in esteem than do I. Nor would I concede that any Senator feels more keenly his responsibility of the moment than do I. That is why I feel obliged to speak out today.

Mr. President, I came to this special session with no commitment of any kind. Like other Senators, I had necessarily observed the junior Senator from Wisconsin, and had more than once expressed reservations concerning his methods, while endorsing always his stated objectives of combating communism at home and abroad.

His efforts were for a long time effective in alerting our people to the dangers of Communist subversion. But in so alerting them, the junior Senator from Wisconsin did harm as well as good. The methods he saw fit to employ alienated many loyal Americans who are as determined as himself to fight communism.

He has caused dangerous divisions among the American people because of his attitude, and the attitude he has encouraged among his followers, that there can be no honest differences of opinion with him. Either you must follow Senator MCCARTHY blindly, not daring to express any doubts or disagreements about any of his actions, or in his eyes you must be a Communist, a Communist sympathizer, or a fool who has been duped by the Communist line.

That attitude, I believe, has been amply demonstrated during this debate.

Mr. President, before returning for this special session, I read carefully the report of the select committee, and the record of the hearings. It seemed to me that a conscientious job had been done. The six brave and worthy Senators who composed the select committee, none wanting the assignment, gave generously of their time and effort as agents for other Senators.

Debate over the select committee's report has now been in progress for many days. When it began, I had an open mind, I have now been convinced by the arguments I have heard and read that I must support the recommendations of the distinguished senior Senator from Utah [Mr. WATKINS] and other members of the select committee.

Mr. President, because of the time limitations upon this debate, and because of the great length of time devoted to a discussion of all the questions involved, I intend at this time to make only a few general observations in support of the select committee's recommendations.

However, I have prepared a more detailed analysis of the charges against the junior Senator from Wisconsin and my reasons for reaching my conclusions. I now ask unanimous consent that my statement may be printed in the RECORD at the conclusion of these remarks.

The VICE PRESIDENT. Without objection, it is so ordered.

(See exhibit A.)

Mr. BUSH. Mr. President, I wish at this time to pay a personal tribute to the select committee which had the unpleasant duty of initially acting for the Senate in this matter. Since we returned for the special session, these six courageous, patriotic Senators have been severely abused by the junior Senator from Wisconsin. They have been called the unwitting handmaidens of communism. The distinguished chairman, the senior Senator from Utah [Mr. WATKINS], has been labeled a coward.

Mr. President, if I have ever met a brave and noble Senator, ARTHUR WATKINS is that man. And, Mr. President, I for one will not walk off and leave him standing in this Chamber with a coward tag on him—not without protest.

And, in pledging my support to the chairman of the select committee, I also pay tribute to each member, and express my personal appreciation of their selfless performance of an unwanted duty as my agent, and the agent of all Senators.

I wish they had been able to find different facts and draw different conclusions. But, try as I have, I am unable honestly to reject their findings.

So, Mr. President, believing with them that the honor of the Senate is at stake, I must support the findings of the select committee.

Mr. President, the constitutional security of the Senate appears to be involved here.

If Senators are to be reviled and roughly abused and insulted by colleagues for whom they act in committee as agents; if Senators acting for the Senate cannot rely upon fellow Senators for the protection of their honor and reputations; then, Mr. President, we will have chaos. If that were the situation, each Senator could make his own rules. And that is to suggest, Mr. President, that the Senate would thus approve of a government of men, nct of laws, with every Senator a dictator—a dictator, Mr. President.

I wonder what the world would think of the Senate if each Senator reserved to himself the special privileges seemingly reserved to himself by the junior Senator from Wisconsin.

Mr. President, the General Zwicker incident suggests that if the Senate now concludes that such violent abuse of an honorable witness be approved—and at this stage of the affair, failure to censure would suggest approval by the Senate—then the Senate will indeed appear to be aiding the Communist conspiracy.

For, if a witness—particularly one of undoubted loyalty and honor—cannot feel secure in cooperating with his Government by testifying before congressional committees—and it is the duty of all citizens to so cooperate when required—then such committees may find themselves hamstrung, indeed, because Mr. President, even honorable patriots may be driven to shield themselves behind the fifth amendment when they may not, in fact, need it. They might well be frightened into taking its shelter.

The abuse of the witness Zwicker appears so severe that less brave witnesses might be so frightened at the prospect of testifying that they would simply refuse on the basis of fear, and take shelter in the Constitution.

Thus might the methods used by the junior Senator from Wisconsin in the Zwicker case appear to obstruct, rather than aid, his stated objectives of destroying Communist subversion.

There must be confidence and respect for our Government, or it will not work. Respect and confidence can only be inspired by fairness.

"Equal justice under law." Those words, emblazoned on the front of the Supreme Court Building, are the symbols of our form of government.

If we want witnesses to cooperate with investigating committees, they must be assured of fair treatment—not soft treatment, but firm and dignified treatment, with observance of rules of fairness. Firmness goes well enough with fairness. It goes very well.

Mr. President, last spring, and again last summer, I proposed that the Senate take affirmative, rather than negative action, by adopting in this 83d Congress a code of fair procedures for investigating committees.

To that end, I submitted Senate Resolution 253. The Committee on Rules and Administration proceeded to hold hearings on this whole matter. However, the distinguished chairman, the Senator from Indiana [Mr. JENNER], objected to my proposal for prompt action on Senate Resolution 253 because the committee had not finished its labors and was not prepared to report the resolution, or any resolution on that subject. He promised action early in the 84th Congress.

I was disappointed, and so were some other Senators who wished to support my substitute proposal. I felt that the Zwicker incident never would have happened if the Senate rules had provided a code of fair procedures such as were provided in Senate Resolution 253, and if such a code were enforced. I note that the select committee made a similar observation in chapter 7 of its report.

Thus the Senate had some responsibility in the matter. The committees are but the agents of the Senate. I felt that adoption of the code would carry its own message to the Senator from Wisconsin, and to all Senators; that it would assist him and those conducting investigations, and eliminate the danger of frightening innocent witnesses from cooperation with committees.

But since my efforts failed at that time, and in view of the select committee's labors and its report, and its brave exposition and defense thereof on the floor, I find it impossible to turn my back upon them.

Mr. President, I am forced to the conclusion that our failure to support their recommendations would be a victory for the Communist conspiracy.

This affair has been so blown up that I believe our allies in Europe, those allies who are absolutely essential to our own defenses, would be shaken in their faith in us, and conclude that perhaps, after all, we ourselves did not care too deeply for our constitutional processes and for equal justice under law.

I believe that our failure to act would frighten millions of our citizens, and that they would lose faith in our Government.

Mr. President, I understand that millions of persons are addressing a petition to the Senate. They certainly have a constitutional right to do that. I applaud the energy and vigor being consumed in this unusual movement. But, as one Senator on the receiving end of this petition, I venture to suggest respectfully to this large, enthusiastic group of loyal, patriotic citizens that a petition be directed to the junior Senator from Wisconsin, begging his consideration of other Senators who also have duties to perform.

Let them ask him not to accuse those of us who may feel that his methods have at times failed to meet basic American standards of fairness as aiding the Communist conspiracy—those of us who have been ready to lay down our lives for our country in the past, and who even now would do so, and whose children now are in the Armed Forces. Let them ask this able and vigorous Senator from Wisconsin if he will not be more tolerant of us so that we can heartily support his energetic efforts in the fight against Communist subversion.

We also were elected in our respective States. We, too, have our responsibilities. We, too, feel the urge to fight Communist subversion at home and abroad. And we also feel the urge to protect the honor of the Senate, the constitutional rights of American citizens, and the constitutional processes of our Government.

Mr. President, I have concluded my remarks.

EXHIBIT A

STATEMENT BY SENATOR BUSH

The select committee appointed to consider the resolution recommending censure of Senator MCCARTHY called his conduct into question on two grounds:

1. That, acting as an agent of the Senate, in his role as chairman of a Senate subcommittee, he violated the trust the Senate placed in him by intemperately abusing a witness and by ignoring the rules of his own subcommittee.

2. That, in his relations with the Senate and fellow Senators designated by the Senate to carry out duties assigned to them, he has been guilty of conduct unbecoming a Senator, and has obstructed the constitutional processes of the Senate.

Those are the charges in substance, if not in the language of the resolution as reported by the select committee.

Let us examine the count charging that the junior Senator from Wisconsin violated the trust placed in him by the Senate.

After hearing the new facts brought to our attention by the distinguished junior Senator from South Dakota [Mr. CASE], on the Zwicker-Peress matter, it became necessary to reexamine that whole phase of the case.

I have great respect for Senator CASE, and high regard for his conscientious, fairmindedness, and ability. So, when he expressed very grave doubts about the wisdom of censuring Senator MCCARTHY on this ground, and announced his own opposition to it, I was shaken in the views I had held until that time.

After again reviewing the record, I am forced to the conclusion that Senator MCCARTHY'S treatment of the witness before him cannot be condoned by the Senate, which bears the ultimate responsibility for the way in which the committees are conducted.

The witness subjected to abuse in this case happened to be a general of the United States Army, but the principles apply in the case of any witness, however humble. All are entitled to fair treatment, and protection against humiliation because of matters over which they have no control.

To quote from the report of the select committee:

"In the opinion of this select committee, the conduct of Senator MCCARTHY toward General Zwicker was not proper. We do not think that this conduct would have been proper in the case of any witness, whether a general or a private citizen, testifying in a similar situation.

"Senator MCCARTHY knew before he called General Zwicker to the stand that the Judge

Advocate General of the Army, who was the responsible person under the statutes, had given the opinion that a court-martial of Major Peress would not stand under the applicable regulations and that General Zwicker had been directed by higher authority to issue an honorable discharge to Peress upon his application.

"Senator McCarthy knew that General Zwicker was a loyal and outstanding officer who had devoted his life to the service of his country, that General Zwicker was strongly opposed to Communists and their activities, that General Zwicker was cooperative and helpful to the staff of the subcommittee in giving information with reference to Major Peress, that General Zwicker opposed the Peress promotion and opposed the giving to him of an honorable discharge, and that he was testifying under the restrictions of lawful Executive orders."

The chief ground of defense has been that Senator McCarthy was justifiably irritated by the Army's handling of the Peress case, and should therefore be excused for venting his anger on General Zwicker.

In regard to the Peress case, I share the irritation and anger of the junior Senator from Wisconsin over the Army's admitted bungling and apparent evasiveness.

The situation now disclosed by the junior Senator from South Dakota, namely, that the Army received timely notice of Senator McCarthy's request that Peress be held for further investigation, and ignored that request, was inexcusable.

I agree with Senator Case's position that "Any chairman of a Senate committee is entitled to expect that if a request by him is presented in time that any responsible departmental staff board will give him the courtesy of deferring terminal action on any matter until the reasons for proceeding have been given to him."

And I agree with him in believing that "Good faith between the legislative and executive branches of Government is a two-way street."

However, I cannot accept his view that because the Army also was at fault Senator McCarthy's conduct can be excused. In the light of his knowledge that General Zwicker personally was blameless, was acting under orders which as a military man he was bound to obey, his treatment of that witness was an exhibition which disgraced the Senate, for whom he was acting as an agent.

In the words of the select committee:

"The conduct of Senator McCarthy toward General Zwicker in reprimanding and ridiculing him, in holding him up to public scorn and contumely, and in disclosing the proceedings of the executive session in violation of the rules of his own committee, was inexcusable. Senator McCarthy acted as a critic and judge, upon preconceived and prejudicial notions. He did much to destroy the effectiveness and reputation of a witness who was not in any way responsible for the Peress situation, a situation which we do not in any way condone."

I do not believe the Senate should let the Zwicker incident rest with censure of Senator McCarthy. The names of all the Army personnel involved in the Peress case have been turned over to the appropriate Senate committees. An investigation should be made to get to the bottom of this matter.

One more action is required, in my judgment. And that is the adoption as promptly as possible of additions to the Senate rules establishing uniform and fair procedures for investigating committees.

The second ground for censure of Senator McCarthy is that, in his relations with the Senate and fellow Senators designated by the Senate to carry out duties assigned to them, he has been guilty of conduct unbecoming a Senator, and has obstructed the constitutional processes of the Senate.

The select committee's discussion of this phase of the case is as follows:

"11. The junior Senator from Wisconsin did 'denounce' the Senate Subcommittee on Privileges and Elections without justification.

"We feel that the fact that Senator McCarthy denounced the Subcommittee on Privileges and Elections is established by reference to a few of the letters in the exchange of correspondence. In his letter of December 6, 1951 (p. 24 of the hearings), to Chairman Gillette, Senator McCarthy states that when the subcommittee, without Senate authorization, is 'spending tens of thousands of taxpayers' dollars for the sole purpose of digging up campaign material against McCarthy, then the committee is guilty of stealing just as clearly as though the members engaged in picking the pockets of the taxpayers and turning the loot over to the Democrat National Committee.' Such language directed by a Senator toward a committee of the Senate pursuing its authorized functions is clearly intemperate, in bad taste, and unworthy of a Member of this body.

"These accusations by Senator McCarthy are continued and repeated in his letter to Chairman Gillette dated December 19, 1951 (p. 27 of the hearings). Under date of March 21, 1952 (p. 30 of the hearings), Senator McCarthy wrote to Senator Hayden, chairman of the parent Committee on Rules and Administration that: 'As you know, I wrote Senator Gillette, chairman of the subcommittee, that I consider this a completely dishonest handling of taxpayers' money.' Similar language is used in Senator McCarthy's letters down to the last dated December 1, 1952 (p. 51 of the hearing).

"If Senator McCarthy had any justification for such denunciation of the subcommittee, he should have presented it at these hearings. His failure so to do leaves his denunciation of officers of the Senate without any foundation in this record.

"The members of the subcommittee were Senators representing the people of sovereign States. They were performing official duties of the Senate. Every Senator is understandably jealous of his honor and integrity, but this does not bar inquiry into his conduct, since the Constitution expressly makes the Senate the guardian of its own honor.

"It is the opinion of the select committee that these charges of political waste and dishonesty for improper motives were denunciatory and unjustified.

"In this connection, attention is directed to the charges referred to this committee relating to words uttered by the junior Senator from Wisconsin about individual Senators.

"It has been established, without denial and in fact with confirmation and reiteration, that Senator McCarthy, in reference to the official actions of the junior Senator from New Jersey, Mr. Hendrickson, as a member of the Subcommittee on Privileges and Elections, questioned both his moral courage and his mental ability.

"His public statement with reference to Senator Hendrickson was vulgar and insulting. Any Senator has the right to question, criticize, differ from, or condemn an official action of the body of which he is a Member, or of the constituent committees which are working arms of the Senate, in proper language. But he has no right to impugn the motives of individual Senators responsible for official action, nor to reflect upon their personal character for what official action they took.

"If the rules and procedures were otherwise, no Senator could have freedom of action to perform his assigned committee duties. If a Senator must first give consideration to whether an official action can be wantonly impugned by a colleague as having been motivated by a lack of the very qualities and capacities every Senator is presumed to have, the processes of the Senate will be destroyed."

I believe the select committee drew a sound and wise distinction between what a Senator may say about a fellow Senator as an individual and what he may say about a fellow Senator fulfilling official duties assigned to him by the Senate.

No question of free speech is involved. Free speech does not mean unrestrained license. In certain circumstances, words may be tantamount to acts, as when a man incites a mob to riot; or when they may lead to disastrous consequences. As Mr. Justice Holmes said, "The most stringent protection of free speech would not protect a man in falsely shouting 'fire' in a theater and causing a panic."

In my judgment, the words used by Senator McCarthy in regard to the Subcommittee on Privileges and Elections were the equivalent of bludgeons with which he attempted to beat into submission Senators who had been assigned the unpleasant and unsought duty of investigating the very serious charges which had been made against him and which could not be ignored.

I must vote for censure on this ground. If conduct like his in this respect—conduct which clearly is within the disorderly behavior which the Senate may constitutionally punish—is tolerated, we shall become paralyzed as a legislative body.

In the course of this debate we have seen the tactics used against the Subcommittee on Privileges and Elections employed against the members of the select committee.

When this session began I attempted to purge my mind of all preconceived ideas about this case. I had read, of course, the select committee's report and the hearings, and it seemed to me that a fair-minded and careful job had been done. But before reaching any conclusions I wanted to hear Senator McCarthy's defense.

What has happened during this debate? I have sat in this Chamber sick at heart as I have heard and witnessed the tactics of Senator McCarthy's defense.

That defense has been based primarily on an attempt to discredit the select committee, composed of six men as fine and honorable as can be found in the Senate. I will not repeat the statements which Senator McCarthy has made about the committee, its chairman, and other members. The pages of the Congressional Record already have been indelibly stained with the indecencies of his attack upon the committee.

I agree completely with the distinguished senior Senator from Utah, Mr. Watkins, in his view of that conduct of the junior Senator from Wisconsin as contempt committed in the very presence of the Senate itself. Senator Watkins' colleague from Utah, the distinguished junior Senator, Mr. Bennett, has brought this matter to issue by offering an amendment to the censure resolution. I must vote for his amendment.

It is distasteful to be compelled to vote to censure a fellow Senator. If such action could be honorably avoided, I think we all would do so.

But the junior Senator from Wisconsin himself has forced the issue by a long-continuing course of conduct that has stained the honor of the Senate.

To wipe out that stain we must support the recommendations of the select committee.

Mr. WELKER. Mr. President, will the Senator yield?

Mr. BUSH. I shall be glad to yield to my friend.

Mr. KNOWLAND. Mr. President, may I ask how much time remains to the Senator from Connecticut?

The VICE PRESIDENT. The Senator from Connecticut has 17 minutes remaining to him. If the Senator from Connecticut wishes to yield for the purpose of inquiry, he may.

Mr. BUSH. I shall be glad to yield to the Senator from Idaho.

Mr. WELKER. Mr. President, I thank my distinguished colleague from Connecticut. I take it to be a fact that at this time, before the case has gone to the court and the jury, my friend has made up his mind, before the case has finally been submitted. Is that a fair statement?

Mr. BUSH. Mr. President, the Senator may draw whatever conclusions suit him from what I have just said. I said that I had studied this matter very closely and for a long time, just as long as the select committee has been in existence, and I have come to the conclusions I have stated at this moment, or as of yesterday evening, and I thought I made pretty clear just how I felt about the matter. I do not know what the purpose of the Senator's question is. If the Senator heard my remarks, he certainly can draw the conclusion that I shall support the select committee's report.

Mr. WELKER. Then it is a fair statement, is it not, that the Senator has closed his mind, regardless of what the defense might show?

Mr. BUSH. Mr. President, I am not going to answer questions like that. The Senator can use his own judgment as to whether it is a fair statement.

Mr. WELKER. Very well. If the Senator does not want to answer that question, perhaps he will answer my next question.

Mr. BUSH. I would observe that the Senator from Idaho seems to have made up his mind very quickly on this matter.

Mr. WELKER. Oh, my mind is very open, just as open as is the mind of the Senator from Connecticut.

Mr. BUSH. It appears that the Senator from Idaho seems to have made up his mind much more quickly than I have made up mine.

Mr. WELKER. Just a moment, Mr. President.

Mr. KNOWLAND. Mr. President, I desire to call for the regular order. As was pointed out in the discussion yesterday, yielding is a matter which comes within the judgment of the Senator who has the floor; and no Senator is required to yield.

Furthermore, our program for today is a very full one. When a Senator has a question which bears on the pending debate, I think it is helpful to have yielding occur. However, I hope we may proceed with the debate.

The VICE PRESIDENT. The Senator from Connecticut has the floor.

Mr. BUSH. Mr. President, I should like to say to my distinguished friend, the Senator from Idaho, that I certainly wish to show him every courtesy. He is a personal friend of mine, one whose friendship I have enjoyed here, and I hope I shall continue to enjoy it. But I do not wish to take up the time of the Senate by answering questions as to whether I think what I have said constitutes a fair statement. On the other hand, I shall be glad to answer any questions the Senator from Idaho may wish to ask me, if the questions really bear on the pending issue.

Accordingly, I yield once more to the Senator from Idaho, in order that he may ask a question, if he desires to do so.

Mr. WELKER. Does the Senator from Connecticut agree with me that the words used by the defendant in the pending action—as I shall call him—when he called the select committee the unwitting handmaidens, agents, or something of the sort, of the Communist Party, constituted, in fact, a very ill-conceived and bad statement?

Mr. BUSH. I certainly agree with the Senator from Idaho that it was that; yes.

Mr. WELKER. Knowing my distinguished friend, the Senator from Connecticut, as an intimate and personal friend, who will always be my friend, regardless of the outcome of this debate——

Mr. BUSH. I certainly thank the Senator from Idaho for that assurance.

Mr. WELKER. Does the Senator from Connecticut have at hand the dictionary definition of the word "unwitting"?

Mr. BUSH. I must confess I have not looked up the definition, Mr. President; but it seems to me that the meaning of that word is fairly obvious. I shall be glad to hear the Senator from Idaho define it if he wishes to give the definition to me; but I think I understand what the word means.

Mr. WELKER. I shall obtain the definition in a moment.

Does my distinguished colleague realize that the word "handmaiden" comes from a very, very profound verse in the Bible?

Mr. BUSH. I thank the Senator from Idaho for that reminder. I recall having seen that word in the Good Book, and the junior Senator from Wisconsin may have extracted it therefrom. But I do not think that point is particularly significant in connection with the pending question.

I think the sense of what the junior Senator from Wisconsin said when he accused the select committee as he did was that the members of the committee were—perhaps ignorantly so—tools of the Communist Party or helpers of the Communist Party. That remark offended me very much as a Senator of the United States, and it still does.

Mr. WELKER. Will the Senator from Connecticut agree with me that Senators of the United States occupy no different position with respect to interrogation on the witness stand than that occupied by the humblest citizen, regardless of where he might be; and will the Senator from Connecticut also agree that generals do not occupy a different position, and neither does anyone else?

Mr. BUSH. Mr. President, I think all should be treated with fairness.

Mr. WELKER. Does the Senator from Connecticut agree with me that it did not enhance the dignity of the United States Senate to have my able and distinguished friend, the chairman of the select committee, evict from the hearing room presided over by himself—it was then a one-man committee—an attorney at law who is licensed to practice in the State of New York and before the Supreme Court of the United States, and to evict him for one alleged breach of good procedure, one action on the part of that lawyer which the Senator from Utah apparently thought violated good decorum in the hearing room, namely, the question, "Mr. Chairman, will you say for the record that I have coached the witness?"

In response, the distinguished chairman of the select committee said, "Put him out."

Does the Senator from Connecticut think that enhanced the dignity of the United States Senate?

Mr. BUSH. Mr. President, I am not passing judgment as to whether it enhanced the dignity of the Senate. Frankly, I do not recall the incident. But I respectfully suggest to my good friend, if I may, that if he wishes me to yield for questions—which I am delighted to do—he question me about what I said or about my position on this matter, rather than about something with which I am not familiar.

Frankly, I do not recall that incident, and I do not know who was "kicked out." I would rely on the fairness of the distinguished senior Senator from Utah [Mr. WATKINS], and I have no reason to doubt at any time his fairness. In fact, I am more impressed with it than ever.

Mr. WELKER. Then, in fact, the Senator from Connecticut did not read the remarks made by his friend, the present interrogator, the junior Senator from Idaho, who spoke at great length upon this matter and disclosed to this jury, the sole judges of the law and the facts in this case, some of the details of the incident about which he has just interrogated the Senator from Connecticut?

Mr. BUSH. I would simply say to the Senator that I doubt that any other Member of the Senate has listened more carefully to the remarks of the junior Senator from Idaho or has heard more of his remarks in connection with this entire debate than has the senior Senator from Connecticut. I may have missed something the Senator from Idaho has said; but I can assure him that I have paid the utmost attention to his remarks, which have been very extended in this entire matter.

Mr. WELKER. In conclusion—because I know the time is short, and I desire to cooperate with the Senate—can the Senator from Connecticut name one man who has been driven to resort to the protection of the fifth amendment to the Constitution of the United States by a vigorous cross-examination, whether it was cross-examination by the junior Senator from Wisconsin or cross-examination by any other Member of the Senate of the United States?

Mr. BUSH. Mr. President, even if I chose to name one or more such persons, I do not think I would do so at the present time, because I would not wish to bring into the debate the name of anyone who might have said—perhaps confidentially—that was his attitude. I do not think that is relevant to the pending issue.

I simply assert that I have talked sufficiently with persons generally who are interested in this matter—with lawyers, as well as with laymen—who share my

fear that unless we establish some fair procedures as minimum standards for these investigations, and unless we get away from abusive treatment of witnesses, we actually will run the danger of having persons who are innocent and loyal citizens, out of sheer fright claim that constitutional privilege; and I do not like that prospect.

Mr. WELKER. So the Senator from Connecticut does not care to reveal to me the name of anyone who, from sheer fright, resorted to the protection of the fifth amendment, by virtue of interrogation by the chairman of the Committee on Government Operations or interrogation by any other member of that committee?

Mr. BUSH. The Senator from Idaho is correct; I do not care to do that, and I do not do it. But I say to the Senator from Idaho that there are some such persons.

Mr. WELKER. If the Senator from Connecticut knows some persons who resorted to the protection of the fifth amendment to the Constitution because of fright, and if the Senator will have those persons appear before the Jenner Internal Security Committee, we shall see that they receive proper protection. We would like to obtain the facts.

Mr. BUSH. I agree with the Senator from Idaho, and I have pointed out that very thing perhaps more than any other Member of the Senate has done. I am very glad to have the Senator from Idaho make that point, and I emphasize that it is perfectly possible to conduct these investigations with fairness. In fact, the distinguished Senator's committee has been complimented by highly intelligent persons for the fairness with which it has conducted its investigations; and I am glad to pay tribute to it at the present time.

Mr. WELKER. Notwithstanding the fact—if the distinguished Senator from Connecticut knows—that the committee, or members of the committee—not the present speaker—have seen fit to eject 2 attorneys and 1 other citizen from the hearing room, for minor matters which caused the chairman of the committee or the interrogator to lose his temper?

Mr. BUSH. Mr. President, I am not prepared to debate that question. I do not know about that ejection. I can conceive of circumstances in which it might be necessary to have someone ejected from the hearing room.

Mr. WELKER. I thank my distinguished friend.

Mr. BUSH. The proposal I have made, Senate Resolution 253, which I again commend to the Senator's attention, provides for such a contingency.

Mr. KNOWLAND. Mr. President, I yield 5 minutes to the junior Senator from North Dakota [Mr. YOUNG].

Mr. YOUNG. Mr. President, my newsletter to the people of North Dakota last week pretty well explains my position on the pending question. I ask unanimous consent to have it printed in the RECORD at this point as a part of my remarks, following which I wish to make a few additional observations.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ON CAPITOL HILL WITH SENATOR YOUNG—A PERSONAL REPORT TO THE PEOPLE OF NORTH DAKOTA

The pending resolution in the United States Senate to censure Senator JOSEPH R. MCCARTHY deals with one of the most cherished and important provisions of our Federal Constitution—that of freedom of speech, including the right to criticize.

I am not greatly disturbed about his criticism of Gen. Ralph Zwicker. General Zwicker was an arrogant, evasive witness. If provocation in any degree justifies harsh words, the Army, through General Zwicker, certainly deserved it. The record clearly indicates that Senator MCCARTHY had requested that the Army not give Maj. Irving Peress, a fifth-amendment Communist, an honorable discharge. Despite the written request delivered by special messenger to the Secretary of the Army, Peress was granted an honorable discharge.

World War II, the Korean war, and the present critical world situation have necessitated the building up of great military strength in the United States. In line with the experience of other nations of the world, some ambitious officers high in the ranks of the military have come to despise the Congress which directly represents the people. They will countenance no higher authority than their own. Some of them have been spoiling for a fight with Congress for a long while. When it seemed that Senator MCCARTHY was losing favor with the people, he became a good target for their purpose.

Senator MCCARTHY's criticism of the special committee appointed by the Senate itself in August, headed by Senator ARTHUR WATKINS, of Utah, was unwarranted and unreasonable. This select committee is composed of six of the most highly respected Members of the Senate. All have a reputation of being fair-minded, independent thinking individuals. In no sense has the chairman, Senator Watkins, ever been cowardly in his actions; nor could the committee be rightly termed "handmaidens of the Communist Party."

Senator MCCARTHY, in his criticism of committee members and others, however, broke no standing rule of the Senate. By law and precedent, North Dakota and other States permit almost unlimited criticism of public officials, particularly during an election campaign. I have oftentimes felt that many of the accusations leveled at me were more vicious, unreasonable, and untruthful than those embodied in the pending censure resolution. It is not a pleasant thing to be the target of such accusations. Any rule of the Senate, or a State or a Federal law, to curb such criticism of necessity must limit in one form or another the people's right of free speech or their right to criticize as they see fit.

The citizens of the United States enjoy greater freedom in that respect than any nation in the world. It is one of our most deep-rooted freedoms. It is better, in my judgment, for an occasional individual who is so perverted in his judgment or so misguided in his civic responsibility to go free than that all of the citizens should be put in jeopardy if they venture to criticize an inefficient or corrupt government official.

Senator MCCARTHY has rendered a highly important service to this Nation in fighting and exposing the Communist influence in the Federal Government and other institutions. He is entitled to great credit for the effective work he has done. I shall not vote for the pending Watkins resolution in the Senate.

Mr. YOUNG. Mr. President, during my nearly 10 years' service in the Senate there has been one attempt after another, in one form or another, to curtail or limit the right of free speech in the United States Senate. I have opposed all of them, and I shall oppose the pending resolution largely upon the same ground.

I do not believe that merely because I disagree with the select committee headed by the Senator from Utah [Mr. WATKINS], I am in any way criticizing the committee. The committee is comprised of six of the finest Members of the Senate. I honestly and sincerely and in a friendly way disagree with them, and I think I have the right to do so.

The junior Senator from Wisconsin [Mr. MCCARTHY] has been intemperate in many of his comments regarding other Members of the Senate and other citizens of the United States. I do not approve of much of his criticism of many Members of the Senate and others. But he has not been the only one indulging in intemperate criticism. During my service in the Senate there have been others who have made just as caustic remarks as he has made. Some of my real favorites of years gone by have been even more vitriolic and caustic in their criticism than the junior Senator from Wisconsin has been, and some of them are among the most greatly admired and most respected Senate Members in history. I refer particularly to the former senior Senator from Wisconsin, Robert M. La Follette, Sr., Senator William E. Borah, of Idaho, and Senator James Reed, of Missouri.

In conclusion, I may say that I am not surprised at comments in foreign countries with respect to the exercise of the right of free speech in the United States. In no other country in the world do the people possess the right of free speech to the degree in which we enjoy that right. In one way or another almost every other country in the world curtails the right of the average citizen to criticize a government official, whether he be a member of the legislative body, a king, or a president. The same limitation applies, to a considerable degree, to the right of members of the legislature to criticize. Here in the United States we have attained the highest degree of freedom, including the right of free speech and the right to criticize any nation in the world. I intend to vote to support the continuance of that freedom forever.

Mr. KNOWLAND. Mr. President, I yield 10 minutes to the senior Senator from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. President, it has seemed to me that we have been somewhat confused in this debate as to what the real issues are. Let me first put aside as irrelevant to this discussion the suggestion that has been made that we are aiding the cause of Communist infiltration if we participate in any form of criticism of the past or present actions of the junior Senator from Wisconsin. Everybody is agreed that all true Americans must fight Communist infiltration wherever they find it, in the Government, or anywhere else.

We all commend the eagerness of the junior Senator from Wisconsin as exhibited in his crusade to fight Communist infiltration. That question has nothing whatever to do with the present consideration of the motion to censure.

Let me express my regret also that those who defend the junior Senator from Wisconsin for his actions, which have been under discussion, would attack the integrity and ability of a select committee which was appointed from both sides of the aisle to consider the various charges made. No finer or more able men could have been selected by this body to handle this difficult problem with judicial calm and with magnificent statesmanship. As one of the 96 Members of this body I must express my firm dissent from the suggestion that any one of the 6 Senators on the select committee could have been biased, or would be in any way disqualified from performing the high duties of the job to which they were appointed. I must come to the conclusion, therefore, that Communist infiltration is not in any way involved in these proceedings, and that the integrity and ability of the select committee can in no way be questioned.

Another matter which has disturbed me in connection with this whole proceeding is the public clamor which has been engendered with regard to it. I have been deluged with letters on both sides of the controversy, and I regret to say that, generally speaking, they have not been helpful, because they seem to me to be an attempt on both sides of the controversy to line up the so-called pro-McCarthyites and anti-McCarthyites. This is a great disservice to the junior Senator from Wisconsin himself, and is even a greater disservice to the United States Senate. To my mind, the demonstrations have been undignified and most unfortunate, and the attempt to collect signatures pro or con indicates a wide misunderstanding among some of the people of the United States as to the way this distinguished body functions. It does not function by popular vote.

The issue before us is far more serious than a popularity contest, or a contest between those for and those against the junior Senator from Wisconsin. As the Senator from Mississippi [Mr. STENNIS] said in his remarks, it has profound moral implications, and we are all troubled by the attitude of mind of one of our Members, which, unfortunately, leads him to resent and oppose either the kindly advice or the hostile criticism of his colleagues.

When I proposed my resolution last summer as a substitute for the Flanders resolution I had in mind an operation which would be different from a trial, and I did not even contemplate a resolution of censure. It seemed to me then that there might be a possibility—and I still believe there is—of bringing the fundamental good that we recognize in the junior Senator of Wisconsin as a friend of ours into line with the best interests of the country. It seemed to me that we could deal with his objectionable activities as matters for criticism by this body and as a basis for warning as to his future conduct. It was my hope, and it is still my hope, that the capacities and energies of the junior Senator from Wisconsin might be allied with the objectives and purposes of our great President in eliminating from our country subversive Communist influences and bringing the country back to a true conception of fundamental loyalties and a united front of true Americanism.

After considering carefully the report of the select committee and being convinced of its judicial and statesmanlike approach, it is my own personal conviction that the action of the Senate should be an endorsement and commendation of the committee's work. We must stamp that work with approval to the end that there may be no further suggestions of bias or any unfair approach by these outstanding colleagues of ours.

I had thought there might be some different form of resolution than that proposed by the select committee, and that possibly we could avoid a direct vote of censure, because that seemed to me to be more in the nature of a penalty for past acts than a warning for the future. The way the case is presented we are faced with a specific resolution of censure. Whatever we do on the censure vote I hope that in some form we can urge the junior Senator from Wisconsin with all the eloquence at our command to join now with his colleagues in the common endeavor to meet the danger of communism which is threatening us all. I am sincerely hopeful that the junior Senator from Wisconsin in his future activities will throw himself wholeheartedly into working with the administration in this common endeavor for the best interests of our country and not work in competition with the administration. I have felt, as so many do, that the junior Senator from Wisconsin has been led astray from the paths of our Senate tradition and Senate dignity in the inept way in which he has handled some of these difficult problems, and it has occurred to me that more may be gained by our strong dissent from some of his activities and by firm admonition for the future, than by any attempt at direct punishment for past action. With such an admonition I suggest that we should all lend a helping hand in establishing a new association among us all, including the junior Senator from Wisconsin, so that once again we can have mutual respect and mutual admiration and work together rather than separately.

As I have said, we shall probably be called on to vote yes or no on the pending resolution, because it is difficult in the time at our disposal to offer alternatives. For the record, however, I wish to suggest the kind of statement which, it has occurred to me, would be dignified for the Senate to adopt and which by its very terms would be an invitation for a new approach by us all to the handling of the critical situation which faces our country. It may be appropriate for me at a later date to offer this proposal as a substitute for the pending resolution, but I will not do so at this time.

The following is a draft of a suggested statement to be adopted by the Senate in lieu of the pending censure resolution:

The Senate of the United States has noted with concern the illness of the junior Senator from Wisconsin and extends to him its best wishes for his early and complete recovery.

The Senate of the United States views with real concern the growing divisiveness and disunity within the Senate and throughout the country because of the problems created by the infiltration of Communists and other security risks into sensitive positions, both in Government and otherwise, and the methods and procedures employed in exposing and eliminating such security risks. The Senate of the United States realizes that it is its immediate responsibility to deal with this critical situation.

The Senate of the United States takes note of the objectives of the junior Senator from Wisconsin [Mr. MCCARTHY] in pursuing his investigations of internal Communist subversion and commends those objectives.

The Senate of the United States, in acting on the report of the select committee, emphasizes that its actions in this connection are in no way to be interpreted as condemning the junior Senator from Wisconsin [Mr. MCCARTHY] for the work he has done in investigating the Communist menace.

The Senate of the United States points out that this question of investigating Communist subversion is not an issue now before the Senate. The question before the Senate is one of individual senatorial conduct involving the traditions and integrity and public manners of this great body.

The Senate of the United States expresses its deep appreciation of the patriotic and honorable service rendered by the select committee composed of Senators WATKINS, CARLSON, CASE, STENNIS, JOHNSON, and ERVIN, and heartily commends its judicial, statesmanlike, and objective handling of this difficult matter.

It is the conclusion of the Members of the Senate that the analysis and conclusions of the select committee should be accepted and adopted by the Senate.

The Senate of the United States feels constrained to rebuke its fellow Member, the junior Senator from Wisconsin [Mr. MCCARTHY], for the reasons clearly set forth in the report of the select committee, and urges that he once again establish the mutual confidence between the Members of this body and himself to which they are all entitled. The Senate of the United States appeals to the junior Senator from Wisconsin [Mr. MCCARTHY] to recognize and frankly admit the harm that has been done by his thoughtless and indefensible words and by his contempt of his colleagues. His fellow Senators urge that he recognize and admit these mistakes, and express his willingness to work with his colleagues in the Senate in endeavoring to establish the proper relationships between the executive department of our Government and the Congress.

The Senate of the United States further recommends that the Committee on Rules and Administration immediately take under its consideration the various proposals that have been made to amend the Senate rules adequately to protect witnesses appearing before committees of the Congress and make prompt recommendations to amend those rules.

Mr. KNOWLAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. PAYNE in the chair). The Secretary will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. KNOWLAND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON of Texas. Mr. President, I yield 20 minutes to the distinguished Senator from Iowa [Mr. GILLETTE].

Mr. GILLETTE. Mr. President, several times in the course of the debate on the pending measure reference has been made to something that is called "mail cover." On two or three of these occasions the junior Senator from Wisconsin has referred to mail covers and has stated that the junior Senator from Iowa is familiar with the facts and could correct the Senator from Wisconsin if he was making an incorrect statement. Several of my colleagues have asked me with reference to the discussion of the mail covers, and I feel that I should discuss the charge very briefly.

Mr. President, I never heard of a mail cover until about 4 weeks ago. I did not know what a mail cover was and I am not fully informed at the present time. The first time I ever heard of a mail cover was on the 30th day of October last. It seems that the junior Senator from Wisconsin had addressed a telegram to me on this subject and, in line with the quaint custom the Senator from Wisconsin follows, he had given copies of the telegram to the news services serving Iowa papers. I did not receive the telegram until Monday, the 1st of November preceding the recent election. But the telegram was released to the publicity media from the office of Senator McCARTHY Sunday morning preceding the Tuesday election. The telegram was as follows:

OCTOBER 30, 1954.

Hon. GUY M. GILLETTE,
Cherokee, Iowa:

As you know the Watkins committee has voted that I be censured for what I considered improper conduct on the part of the Gillette committee. There has now come to my attention four different letters which you wrote to the Postmaster during the 1952 campaign ordering that arrangements for a mail cover be provided for on my mail and on members of my staff. According to your letter the mail cover was to extend to November 16, 1952. As you know and knew at the time this was a clear-cut violation of the law as mail covers are only allowed by the FBI and certain executive agencies and then only for the limited purpose of obtaining information to apprehend fugitives from justice and in cases of subversives. As you are aware this flagrant violation was only one of the improper actions on the part of your committee. Nevertheless the Watkins committee says that I should be censured for vigorously criticizing your committee. It would seem therefore that the voters should have a clear-cut statement from you before election as to whether you will vote censure because of my criticism of your committee, which committee as you well know was used to make an example of anyone who dared to expose subversives in Government. I hope that you will not stall until after election but will give a yes or no answer. There is not available to you the excuse used by some Senators that they cannot answer this question because they do not know the facts. All the facts are known to you so there should be no reason for you to duck answering this question.

JOE MCCARTHY.

Mr. President, as I previously stated, this telegram was given circulation in Iowa 2 days before the election and 2 days before I received it. I repeat, Mr. President, that until I read this telegram I had never heard of a mail cover. I have been at some pains to make inquiry of members of the staff of the Privileges and Elections Subcommittee relative to this matter, and there is not one scintilla of evidence that I had any knowledge of the use of mail covers in connection with the mail of the Senator from Wisconsin or any of his staff. Neither have I been able to learn of the unauthorized use of my name in connection with any letter or letters on the subject.

I had resigned as chairman of the Subcommittee on Privileges and Elections on the 26th of September 1952.

The purpose of the junior Senator from Wisconsin in sending this telegram and making it public prior to its receipt by me just 2 days before the Iowa senatorial election can only be conjectured. I simply state the facts.

Mr. President, it might be of interest to the Senate to hear the reply which I made to the telegram when it was finally delivered to me on the day before election:

I regret that the Senate was not called into session for consideration of the Watkins committee report before election.

However, since the Senate will not be reconvened until after election, I have made and shall make no statement relative to my vote on the resolution prior to consideration of the resolution by the Senate and the full hearing of the facts as developed by all concerned in the debate.

Mr. President, in the normal course of congressional postelection events the 83d Congress, without an intervening session, would come to the end of its legislative life January 2 next, and those like the junior Senator from Iowa who will not be Members of the 84th Congress could, in the meantime, "fold their tents like the Arabs and silently steal away." But the Senate of the 83d Congress has been called back in extraordinary session to consider a special committee report on a resolution introduced in the Senate and calling for the censure of a sitting Senator for acts which it is alleged have impaired the prestige and dignity of the United States Senate and its membership.

I have been very reluctant, Mr. President, to participate in the discussion of the pending measure for two important reasons: First, as a "lame duck" Senator, there was a hesitancy on my part to speak, which I am certain all Senators will understand, whether they have ever experienced this status or not. Second, I was, for an extended period, the chairman of the Senate Subcommittee on Privileges and Elections, which has been repeatedly referred to in the course of the debate as the Gillette committee, and the contacts of the junior Senator from Wisconsin with this subcommittee are the basis for one of the recommendations for censure in the special committee report.

I am not going to discuss the report directly now. But the fact that the Senate has been called back to Washington for a special session and for a special purpose has brought to my mind a flood of thoughts and an opportunity to express these thoughts.

Perhaps I may be excused in what may well be my valedictory talk in this Senate if I exercise an old-timer's privilege to talk of the past.

Mr. President, 18 years ago this very month I first became a Member of the United States Senate. At the end of my present term I will have served here a little over 14 years. I presume, then, that it is inevitable that one who has served that many years in this body would recall a host of outstanding statesmen with whom he has been permitted to serve here and to ask what has happened or what shall be permitted to happen that would lower the standards of integrity, quality, and dignity that have through all these years characterized the Senate of the United States.

Without mentioning or referring in any way to present Members or detracting in the slightest from the great service of former colleagues whom I may not specifically mention, I want to express the pride and pleasure I have had, Mr. President, in the great privilege of serving here with men like Senator Charles McNary, the great minority leader over many years, an ardent worker for legislation to aid the agricultural industry, with his ability, calm and alert leadership, and unvarying consideration for others.

Senator Joe Robinson, of Arkansas, who, as majority leader, unselfishly fought for his party's legislative program, subordinating all personal ambitions and prospects to this task.

Senator William Borah, of Idaho, undoubtedly one of the great Senate orators and a man whose judgments were sought nationally and internationally, yet who was invariably ready to give the benefit of his advice and guidance to a new Member.

Senator George Norris, of Nebraska, whose constructive liberalism developed legislative enactments that stand as monuments to his service.

Senator Arthur Vandenberg, of Michigan, intelligent, able, constructive, and the symbol of bipartisanship in our international relations.

Senator Robert Taft, a man strongly partisan but a man of great ability and courage, with tireless energy, and a temperate, courteous, and reasonable opponent in debate.

Senator Carter Glass, of Virginia, a great and kindly gentleman, fiery and fearless in debate, but never deviating in the slightest from the chivalrous attitude toward an opponent.

Senator Robert La Follette—young Bob—able and tireless worker, always deeply concerned with the welfare of the little man, a student of Senate procedure, and an unswerving advocate of fair play.

Senator Alva Adams, of Colorado, one of the ablest and most hard-working of all my associates over these years. He shunned publicity and any outward dis-

play of his rightful credit for public acclaim.

Senator Hiram Johnson, of California, of strong and unyielding convictions, intelligent mind, and a tremendous antagonist in debate, but never failing in urbanity and politeness.

Senator Tom Connally, of Texas, the incisive and cutting debater.

Senator Warren Austin, of Vermont, the urbane intellectual.

Senator Pat Harrison, of Mississippi, the fighting Democratic partisan who was never unfair and never unjust.

The temperate and judicial Josiah Bailey, of North Carolina; the placid but keen Wallace White, of Maine; the formidable but jovial and kindly Senator Alben Barkley, of Kentucky; the resourceful and hard-fighting, but always just, Burton K. Wheeler, of Montana; and the courtly Henry Ashurst, of Arizona.

Because I have named several of these great former colleagues, it is not intended to exclude a host of others who have graced the Senate during my years of service here. Is it surprising, then, Mr. President, that having had the rare privilege of serving with these great Senators, who cherished and protected the Senate from anything that would impair its tradition of more than a century and a half of dignity, honesty, integrity, and prestige, I am greatly concerned in the present situation that finds the United States Senate repeatedly traduced in various publicity mediums and engaged in a mighty effort to sustain and perpetuate its unsullied tradition of probity and honor?

Now let me turn, Mr. President, to some other facts which come to my memory that more closely pertain to some phase of the present controversy. In the year 1940, a presidential election year, there was appointed, as was customary, a Senate Special Committee on Privileges and Elections; not a subcommittee of the Committee on Rules and Administration, but a committee specifically selected for the purpose of inquiring into complaints relative to senatorial elections in the 1940 campaign. I was named to head this special committee. Of its membership, the two Republican members, Senator Clyde Reed, of Kansas, and Senator Charles Tobey, of New Hampshire, and one of the Democratic members, Senator Alva Adams, have passed on. One of the members, the distinguished senior Senator from Alabama [Mr. HILL], is still with us and is an outstanding Member of this body.

This special committee had a host of complaints laid before it in connection with the 1940 election. It was necessary to hold hearings in several places out of Washington, as well as in this city. To hold these hearings outside of Washington, we invariably selected one Republican and one Democrat to go to the various jurisdictions.

Some of the hearings were tense and vitriolic, and questions were raised not only of intense general interest but of strong partisan importance. The special committee completed its arduous task and filed its report with the Senate. With very minor exceptions as to legal questions, the report was unanimously approved and signed by all the members of the special committee. No attack, so far as I know, was made on the members of this special committee or the committee itself for its work and its report and while the members assiduously performed their task there was unfailing and continuing courtesy to each other and a desire to serve sincerely the interests of the Senate and the Nation.

Before I returned to this body in 1948, the Reorganization Act had come into force. The functions of the special Committee on Privileges and Elections had become part of the area of responsibility of the Senate standing Committee on Rules and Administration.

Under Senate rule No. XXV, setting up the Committee on Rules and Administration, a part of that committee's jurisdiction was defined under subsection (D) of section (o) as "Matters relating to the election of the President, Vice President, or Members of Congress; corrupt practices; contested elections; credentials and qualifications; Federal elections generally; presidential succession."

In conformity with this responsibility, the Committee on Rules and Administration set up a subordinate body to have specific responsibility in carrying out its work in this area of elections and election contests. The Committee on Rules and Administration, for the 1950 election, appointed as members of the Subcommittee on Privileges and Elections the junior Senator from Iowa as chairman, with the Senator from Mississippi [Mr. STENNIS] and the Senator from Kansas [Mr. SCHOEPPEL] as members.

This subcommittee had the usual quota of complaints, protests, and charges relative to alleged violations of law in connection with senatorial elections. We considered each and every complaint that seemed to have any reasonable foundation. Never at any time was the question of partisanship or party advantage raised by a member of our subcommittee relative to any complaint laid before us. No one could be more impartial than these men with whom I served in considering these alleged violations either by investigations or hearings. No men could have been more fair than were the Senator from Kansas and the Senator from Mississippi in considering all of these complaints; and the same judicial approach was evinced whether a Republican or a Democratic senatorial seat was in jeopardy.

After the 1950 election and with the reshuffling of committee memberships, Senators STENNIS and SCHOEPPEL were both shifted from the Committee on Rules and Administration to other standing committees. The chairman, Senator HAYDEN, appointed the Senator from New Jersey [Mr. HENDRICKSON], the Senator from Missouri [Mr. HENNINGS], the Senator from Maine [Mrs. SMITH], and the Senator from Oklahoma [Mr. MONRONEY] to serve with me as chairman, as members of the Subcommittee on Privileges and Elections of the standing Committee on Rules and Administration. The increased membership from 3 to 5 seemed advisable because of the large amount of work that faced the subcommittee and our policy of insisting that both a Democratic and a Republican Senator should be assigned to conduct each and every designated hearing.

Again, Mr. President, I pay high tribute of praise to each and every one of these Senators. Some of the hearings on complaints laid before us were protracted and extremely arduous, particularly the hearing involving the seat now held by the senior Senator from Maryland [Mr. BUTLER].

Because of the seriousness of charges in connection with this contest, I, as chairman of the subcommittee, assigned two Republican Senators and two Democratic Senators to conduct the hearing in the Maryland contest, and I took the further precaution of not personally attending the hearings, in order that there be not the slightest party numerical advantage.

The responsibilities laid on the subcommittee in the area of alleged election irregularities were so heavy and also so recent that I am sure they are well remembered by a majority of the Senators now sitting as Members of this body. I shall only repeat what I said with reference to the 1940 Committee on Privileges and Elections. Each and every one of my four associates on the subcommittee brought to the membership task a clarity of unbiased thinking and an integrity of purpose and effort that could not be surpassed.

The PRESIDING OFFICER (Mr. PAYNE in the chair). The Chair must advise the Senator from Iowa that his time has expired.

Mr. JOHNSON of Texas. Mr. President, I yield to the distinguished Senator from Iowa 5 additional minutes.

Mr. GILLETTE. Then, Mr. President, there was filed in the Senate a resolution sponsored by the then Senator from Connecticut, William Benton, charging the junior Senator from Wisconsin with certain alleged derelictions of conduct, and authorizing and directing the Committee on Rules and Administration to consider these specified charges, and "to make such further investigation with respect to other acts since his election to the Senate as may be appropriate to enable such committee to determine whether or not it should initiate action with a view toward expulsion from the Senate of Senator JOSEPH R. MCCARTHY."

It will be noted, Mr. President, that the Benton resolution did not, as has often been stated on this floor, call for the expulsion of Senator MCCARTHY. But it authorized and directed that investigation be made with reference to certain specified and other acts on which might be predicated an expulsion action on recommendation of the Committee on Rules and Administration.

The junior Senator from Iowa was then, and still is, of the opinion that the Benton resolution should better have been referred to the Committee on the Judiciary, since it did not come within any area regularly assigned to the Committee on Rules and Administration, but the Benton resolution was referred by the Senate to the Committee on Rules and Administration, and rereferred by

it to its Subcommittee on Privileges and Elections.

It is essential to keep the facts in mind, Mr. President. The jurisdiction of the Subcommittee on Privileges and Elections re the Benton resolution did not derive from the area of responsibility delineated by the Reorganization Act, but it was a specific reference of a specific matter by the Senate itself.

The Watkins committee, in its report to the Senate, stated that because Senator McCARTHY had questioned the jurisdiction of the Subcommittee on Privileges and Elections, and because of the allegations of Senator McCARTHY that the subcommittee was proceeding without jurisdiction and dishonestly, and, in effect, stealing public money, Senator HAYDEN, chairman of the Committee on Rules and Administration, submitted Senate Resolution 300, April 8, 1952, in the 82d Congress, and 2 days later, April 10, 1952, the Senate voted, 60 to 0, to confirm both the area of jurisdiction and the honesty and conduct of the subcommittee.

These matters have been recited repeatedly in the reports and discussions now before the Senate. My only purpose in citing them once more is to present more vividly the facts of the long years of unquestioned probity, honesty, and integrity, in the performance of their onerous duties, on the part of all the members of the special and Subcommittee on Privileges and Elections—how they each and everyone minimized party advantages, and in all their deliberations evinced the most assiduous support at all times of the dignity, standing, and reputation of the United States Senate.

The distinguished Senator from Mississippi [Mr. STENNIS] stated a few days ago that in certain acts and statements of recent months it seemed that something fine had gone out of this Chamber. It might be pertinent if each Senator should ask whether something of deterioration, something corrosive, or even something sinister has come into this Chamber and been allowed to lessen its dignity, its prestige, its influence, its effectiveness, and its honor.

The Senate is what we make it. The responsibility is ours for the conduct of the Senate as a whole, and for the conduct of its individual Members, so far as such conduct reflects on the position, importance, and influence of the Senate of the United States. If the Senate is to continue its investigating functions—and I am sure it should and will—if it is to sit in judgment on our citizens in extra-juridical activities, we must look to our own standards in the Senate itself, and we cannot avoid our responsibilities.

Some months ago I stood on the eminence in Galilee where tradition says the Master of Men delivered that superlative message which we call the Sermon on the Mount. If we are to act as judges of the conduct and performance of duty of other governmental agencies or of individuals, we should do well to remember these words from the Sermon on the Mount:

> Why beholdest thou the mote that is in thy brother's eye * * * and, behold, a beam is in thine own eye? Thou hypocrite, first cast out the beam out of thine own eye; and then shalt thou see clearly to cast out the mote out of thy brother's eye.

Mr. HAYDEN. Mr. President, will the Senator from Texas yield 5 minutes to me?

Mr. JOHNSON of Texas. Mr. President, I yield 5 minutes to the distinguished Senator from Arizona.

Mr. HAYDEN. I have asked for this time because I wish to say to the Senator from Iowa that I have caused diligent research to be made of both the United States Code and the postal regulations, and I can find nowhere that there is any violation of law in the use of what is known as a mail cover or mail check.

Mr. JENNER. Mr. President, will the Senator yield?

Mr. HAYDEN. I yield.

Mr. JENNER. Is not a mail check ordinarily used to catch murderers or other criminals?

Mr. HAYDEN. No.

Mr. JENNER. Has it ever before been used to catch a United States Senator?

Mr. HAYDEN. I do not know about that. The point I make is that a mail cover is a common means or device frequently used by the post-office inspectors——

Mr. JENNER. To catch criminals.

Mr. HAYDEN. To catch criminals.

Mr. JENNER. That is right. Has it ever been used to catch a Senator?

Mr. HAYDEN. Perhaps the Senator ought to have been caught.

Mr. JENNER. Very well.

Mr. HAYDEN. The point I wish to make is that post-office inspectors, when mail fraud is involved, very frequently—almost invariably—use a mail cover. What is a mail cover? It is a recording in the post office of the return address on envelopes. It does delay the delivery of a letter for a brief time, until a postal employee can note down the return address on the outside of the envelope. The letter is otherwise untouched, remains unopened, and is then delivered. In the case of a mail fraud, the postal inspector obtains the names of the persons writing to the person or persons who are suspected of a mail fraud, in order to ascertain whether money is being transmitted through the mails. In that way the postal service is able to expose the fraud and obtain evidence to convict the swindlers.

In the instance referred to by the Senator from Iowa very serious charges had been made against a United States Senator, one of which was that he had taken money contributed to him to fight communism, and had diverted it to his own personal use. It was alleged that the diversion of the money was for the purpose of speculation on the commodity and the stock markets. In order to enable the investigator to ascertain who were the commodity and stock brokers with whom the Senator was dealing, in view of the very serious charges, which might or might not be true, a mail cover was instituted, and I am informed that the mail cover did disclose who were the brokers with whom the Senator was then doing business.

Mr. KNOWLAND. Mr. President, will the Senator yield at that point?

Mr. HAYDEN. I yield to the majority leader.

Mr. KNOWLAND. If there had been such a diversion of the funds, however, would that not in fact have been a violation of the income-tax laws, and would that not approach, if not indeed be in fact, a criminal violation of the laws and of the statutes, and be a matter for the Department of Justice to investigate and, if the facts substantiated the charges, to prosecute the perpetrator of the fraud in violation of the law? If a person used such funds for his own purposes, would not the receipt of such funds be in the nature of income, and have to be reported in his income-tax return?

Mr. HAYDEN. That income-tax phase was fully examined into by the staff of the subcommittee. All of the facts developed were subsequently forwarded to the Commissioner of Internal Revenue, and to date there has been no report from Commissioner Andrews as to whether or not there was a violation of the income-tax laws. I am trying to point out that this was the logical and well-established way for a trained investigator to obtain facts which would determine whether there had been a violation of the law.

I do not know the date of any of the alleged letters relative to a mail cover which the Senator from Iowa [Mr. GILLETTE] is supposed to have signed. But the telegram read by the Senator from Iowa addressed to him by the junior Senator from Wisconsin was widely published in the Iowa newspapers on the day before the election. It was stated that the Senator from Iowa wrote four such letters, but I am satisfied that he did not, because it is quite certain that the question of the use of a mail cover did not arise until after he had resigned from the subcommittee and was no longer its chairman.

I did not know anything about the mail cover at the time; and I doubt that either the Senator from Missouri [Mr. HENNINGS] or the Senator from New Jersey [Mr. HENDRICKSON] did.

Mr. HENDRICKSON. Mr. President, will the Senator from Arizona yield to me for a moment?

The PRESIDING OFFICER (Mr. BUSH in the chair). Does the Senator from Arizona yield to the Senator from New Jersey?

Mr. HAYDEN. I yield.

Mr. HENDRICKSON. I may say I never heard of the thing, and I did not know what a mail cover was until the matter came up on the floor of the Senate.

Mr. JENNER. Mr. President, will the Senator from Arizona yield to me, so that I may ask a question of the Senator from New Jersey?

Mr. HAYDEN. I yield.

Mr. HENDRICKSON. I shall be glad to answer the Senator's question.

Mr. JENNER. The Senator from New Jersey was a member of the subcommittee investigating this matter; was he not?

Mr. HENDRICKSON. I was.

Mr. JENNER. And yet the Senator from New Jersey had no knowledge, and no one informed him, that a mail check—which is used to apprehend criminals—was going to be placed on the mail of a United States Senator, when the very information the subcommittee was seeking could have been obtained from the Internal Revenue Service, which undoubtedly already had the information?

Mr. HENDRICKSON. I repeat that I never heard of such a thing as a mail check or mail cover.

Mr. JENNER. I thank the Senator from New Jersey.

Mr. HAYDEN. Mr. President, my point is that the investigators employed by the Subcommittee on Privileges and Elections were experienced in their line of work; they were former members of the Federal Bureau of Investigation. That method of checking up on the mail received by persons under investigation is a familiar practice among experienced investigators, just as it is a familiar practice among post-office inspectors; and it has been used time and time again by good investigators.

Mr. JENNER. Mr. President, if the Senator from Arizona will yield to me, let me point out that the practice is a familiar one only for the purpose of catching criminals.

Mr. HAYDEN. Well, Mr. President, I do not know whether the junior Senator from Wisconsin was committing a crime, and neither does anyone else. He had been charged with very serious misconduct which the Senate had directed the Subcommittee on Privileges and Elections to investigate.

The PRESIDING OFFICER. The time yielded to the Senator from Arizona has expired.

Mr. JENNER. In other words, Mr. President, if it is a familiar practice, would the Senator from Arizona object to having any other Senator's mail covered?

Mr. HAYDEN. I would not object to having my own mail covered.

Mr. JENNER. But when the Senator from Arizona says it is a familiar practice, I wish to point out that it is a practice which is used only to apprehend criminals, such as murderers.

Mr. HAYDEN. I do not know about its use in connection with murderers, but it is widely used in connection with mail frauds.

However, the statement has been made that a mail cover was used on Senator McCARTHY's mail. Undoubtedly the check was made and the names of the persons from whom he received mail were noted and listed. That is all I say. I wish to emphasize that the practice is not unlawful and is a regular one on the part of the Federal Bureau of Investigation, and a regular one on the part of the Post Office Department, and is a practice well known to experienced investigators all over the Nation.

Mr. WATKINS. Mr. President, will the Senator from Arizona yield to me?

Mr. JOHNSON of Texas. Mr. President, I yield 2 additional minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 2 additional minutes.

Mr. WATKINS. I desire to ask this question: If the junior Senator from Wisconsin had come before the subcommittee when he was invited to do so, he could have furnished the information about his brokers, could he not?

Mr. HAYDEN. Certainly.

Mr. WATKINS. It would not have been necessary for the investigators to have made a mail check if the junior Senator from Wisconsin had come to the subcommittee and had furnished the information about who his brokers were and about his stock transactions; is that not correct?

Mr. HAYDEN. That is correct. The charges were well known; they had been made by Senator Benton and by others.

The Subcommittee on Privileges and Elections were directed by a vote of 60 to 0 on the part of the Senate to proceed with its work, and had authority to make a thorough investigation and to determine the facts as to all charges. The way to accomplish that result was to get the basic information as best the subcommittee could.

If it were true that a stock speculation had been undertaken by the junior Senator from Wisconsin, and that he had taken money contributed to him for the purpose of fighting communism, and had applied it to the purchase of commodities or stocks, it was appropriate for the subcommittee to determine who were the stockbrokers with whom he had conducted business; and that information could be developed by a mail cover.

COMMITTEE SERVICE

Mr. KNOWLAND. Mr. President, I yield one-half minute to myself. I now send to the desk a proposed order for which I request immediate consideration.

The PRESIDING OFFICER. The Senator from California is recognized for one-half minute, and the proposed order will be read.

The Chief Clerk read as follows:

Ordered, That the Senator from Nevada [Mr. BROWN] be, and he is hereby, excused from service on the Committee on Public Works and is assigned to service on the Committee on Labor and Public Welfare.

That the Senator from New Hampshire [Mr. COTTON] be, and he is hereby, excused from service on the Committee on Labor and Public Welfare and is assigned to service on the Committee on Public Works.

The PRESIDING OFFICER. The question is on agreeing to the order. Without objection, the order is entered.

IMPRISONMENT BY CHINESE COMMUNISTS OF UNITED STATES MILITARY AND CIVILIAN PERSONNEL

Mr. JENNER. Mr. President, will the Senator from California yield 15 minutes to me?

Mr. KNOWLAND. Yes, Mr. President, I yield 15 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 15 minutes.

Mr. JENNER. Mr. President, the young men who leave their homes and families, put on the American uniform, and go to strange places to risk their lives for our country are the highest responsibility on our Government.

The Chinese Communists boast that 11 members of our Armed Forces and 2 civilian employees of the Defense Department are being held in jail by them as spies, in violation of the rules of war and the specific terms of the Korean cease-fire agreement. We have been told there are 526 missing GI's and several hundred civilians who cannot get out of China.

This latest defiance of the rights of the United States is perilously close to an act of war. It must be met by all necessary measures, whatever they may be, to compel the Red bandits to free all Americans now held in restraint by them.

I wish to offer my full support to the proposal of the majority leader that the United States Government order an immediate blockade of the China coast by the American Navy, to continue until all our citizens held captive by the Reds are free. I wish to offer my support also to his demand for full information on all Americans, military or civilian, now detained by the Communists, Chinese or Russian or any other, and full information on all outrages against our personnel, such as the recent shooting down of an American plane on a peaceful mission over Japanese waters, in which one member of the crew lost his life.

It is the first obligation of a sovereign power to protect the men who fight for the nation's security. These young men ask nothing for themselves. They are content to serve their country. In return, our country can never forget its obligation to them.

It is part of the cruel injustice of war that the many who stay home owe so much to the few who go forth to fight. But if those few are ill-treated, contrary to the rules of war, then every citizen of the Nation must rise up and defend them with every resource we possess. A nation which will not give every last ounce of its strength and courage to free its unjustly imprisoned fighting men, is not worthy of respect as a sovereign power.

I am concerned about proposals that we should ask the United Nations to compel the Red Chinese to desist from violence. I do not want the United Nations ever again to tell us how much support we may, or may not, give to our own fighting men. This is, as the senior Senator from California [Mr. KNOWLAND] said, a matter for the United States Government to settle for itself. We shall be glad to have friends with us, but no one above us.

We shall be glad to work with the United Nations, but never under it. If we turn over to the United Nations the question of protecting our fighting men, we shall be transferring our sovereignty. We shall be admitting that we are a

province in a world government, no longer free to defend our national honor.

In the past 4 years, Americans have watched in angry impotence while the war which Red China waged against us in Korea was transformed into a military stalemate and a political defeat.

I have listened to statement after statement, under oath, by our military commanders in Korea—Generals MacArthur, Clark, Van Fleet, Stratemeyer, and Almond. All said we had military victory within our grasp, and that it was taken from us and turned into defeat. Our admirals told us how the Red Chinese war could have been shortened, and Communist barbarism ended, by a blockade of the China coast in 1950 and 1951 and by other military action, which was refused by our Government.

Our fighting men won the Red Chinese war in Korea, but our political leaders saved the Reds from the consequences of defeat. We were told that the United Nations was responsible for this transformation of bloody victory into humiliating compromise, and that the American Government had no choice but to acquiesce. Personally, I am skeptical of these plausible explanations that the United Nations was responsible for our humiliation.

Philip Jessup told the Senate Committee on Foreign Relations that, of course, American representatives to the United Nations could not present a purely American point of view.

The junior Senator from Iowa [Mr. GILLETTE], who has just spoken, very properly asked why they could not, and voted in committee against confirming Jessup as our representative to the United Nations.

Ambassador Lodge has spoken out in the United Nations in truly American fashion against this newest atrocity, but I am still fearful that pro-Communist sympathizers in our Government, and pro-Communists in other governments, have their own channels into United Nations, through which they can block American efforts to lead the anti-Communist world to victory.

I have stated elsewhere that today we have a "fourth house" of Government, independent of the President, the Congress, and the courts, which makes many of the basic decisions of our Government in foreign policy, and makes them favorable to a collectivist one-world.

I do not think we can submit any question of American sovereignty, of American military policy, or of American leadership in the anti-Communist struggle, to the United Nations, until we find out who in our Government, and in the United Nations, are pulling the invisible strings.

The Soviet Union and its Red Chinese satellites have planned each of these episodes of humiliation as part of the cold war, to make the United States look big, overgrown, worn out, basking in past glory, but too rich and decadent to defend itself against the brave, new, vital Communist empire in Asia. The United States, not the United Nations, must answer this question.

A naval blockade of the China coast would speak the only political language the Communists understand. It would stop the flow of war materials, which the Communists plan to use to destroy our country. It would be a signal to every starving peasant and slave laborer, that hope is not lost.

Let us make an American policy now, for the American Government to carry out, in defense of American fighting men. If our friends in the United Nations wish to join us, we shall welcome them. If appeasers here at home try to bind us with the cords of United Nations, let us say, "No. A sovereign America defends its own." Let us make it clear for all time that we know how to deal with bullies, bandits, murderers, and cowardly showoffs.

Secretary Dulles, who spoke in Chicago day before yesterday, is opposed to our making any warlike moves. I, too, am opposed to making any warlike moves. The problem is to make the Chinese Communists desist from their warlike moves.

The Communists do not want war. They had a taste of war in their attack on us.

They want victories without cost. If we make their victories expensive, they will retreat.

The Soviet Empire is weaker today than it has been since the Nazi invasion, or the time of the purges. Its people are starving, disillusioned and rebellious. Red China is seething with hate and oppression. Only the fifth column can help the Communists today. We are hearing the siren song of coexistence on every side.

If anything shows the true nature of coexistence, it is this new outburst of lawless violence.

"Coexistence or war," say the fifth columnists and their unwitting victims. But coexistence is war. Coexistence is designed to prop up the Soviet Union and its Chinese colonial satellite, so they can put down the threat of internal disorder, and then safely turn against us.

The Communist empire cannot stand without help from us or our allies. We made it what it is today.

It will fall to pieces unless we give it food, machinery, prestige and footholds for propaganda.

The Communists want us to dream of peace, until their armies can strike at Europe from Poland or the Balkans, or come over in airplanes to Chicago or Detroit.

The American policy of defiance of tyranny is the only road to peace. It is the only way to give hope to the captive people behind the Iron Curtain.

Let us break all diplomatic and trade relations with the Soviet Union, give to the helpless people of Russia, China, and the satellites the reassurance of an American Government, ready to defend its own fighting men to the uttermost, and refuse the hand of fellowship to governments red with the blood of their own people and ours.

Mr. WELKER. Mr. President, will the Senator from Indiana yield for one question?

Mr. JENNER. I am glad to yield.

Mr. WELKER. Could it be properly said that those of us who think as the Senator does—and there are too few of us on the floor of the United States Senate—might well adopt the slogan, "The country you save may be your own"?

Mr. JENNER. The Senator is correct.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point as a part of my remarks an editorial entitled " 'Peaceless' Coexistence," written by David Lawrence and published in the U. S. News & World Report for November 26, 1954.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

"PEACELESS" COEXISTENCE

(By David Lawrence)

It is characteristic of the moral weakness of our times that even a proposal to debate the facts of international life is regarded as dangerous—as fostering perhaps a climate of war.

Senator KNOWLAND of California, last week called upon the Senate of the United States to study the implications of peaceful coexistence—the phrase which seems to have anesthetized so many of the statesmen of the free world.

Mr. KNOWLAND spoke—as Senator Taft often did—not necessarily as the Republican leader of the Senate, but with the deep-seated sense of duty of a representative of a large State. The California Senator's comments were met with an outburst of criticism in the press, though he was, to be sure, joined sympathetically by the Democratic Party leader, Senator LYNDON JOHNSON.

Is it a phenomenon of our day that Congress must abdicate its position as a coordinate branch of the Government and furnish only rubberstamp Senators who blindly follow the executive?

All that Mr. KNOWLAND really proposed was that the entire field of diplomatic and military policy be surveyed to determine whether America is being duped into accepting the theory of a stalemate while Soviet Russia continues her conquest of weaker countries. Are we, in effect, the victims, he asks, of a self-imposed, one-sided truce? Should not our policies be reexamined constantly in the light of Soviet behavior?

Mr. KNOWLAND is a realist who doesn't believe that peaceful coexistence is attained by wishful thinking or by issuing agonized pronouncements abouts the horrors of an atomic war.

But, exclaim some of the other Senators, doesn't Mr. KNOWLAND understand that there is no alternative to peaceful coexistence except a terrible war?

The very asking of that question emphasizes the moral bankruptcy of the hour—the inability to perceive that there is and always has been an alternative to war, namely, the concerted use of moral force.

For there are even stronger weapons than atom bombs with which to attain peace in the world. They are the weapons which mean moral ostracism of the aggressor and nonintercourse with the potential enemy. They are weapons which do not destroy peoples but organize their desires for peace in a positive and constructive program of action.

To apply moral force requires courage. Unfortunately, it takes far more courage nowadays merely to sever diplomatic relations with the Soviet Union and to cut off all trade intercourse than it used to take to declare war when an overt act came. The protest which arises from the victims of the terror propaganda of today whenever a nonintercourse policy is suggested is symptomatic of the craven attitude which is fast becoming characteristic of many a government.

Yet why should we furnish materials to build up the enemy's war machine?

Why should we, by our passive acquiescence, lead the rulers in the Kremlin to believe that they may take a chance and commit acts of aggression because we ourselves talk always as if we are frightened? Such moods of frustrated despair could force war upon us some day as an inevitable alternative. And war then would be the product of our own fallacious pacifism.

The hope of the world lies in the emancipation of the people of Soviet Russia and in the liberation of the people of the satellite countries. They can be convinced that the peace of mankind is in their hands. The mere mention, however, of the word "liberation" is greeted by our allies with the specious argument that only military force can achieve such an objective.

The Red army is an influential segment of the Soviet people. There is today no more affinity inside the Red army for the despotism of the Kremlin than there was for the Czar who was overthrown in 1917.

We can and must give hope to the peoples behind the Iron Curtain. They regard peaceful coexistence as a willingness on our part to condone evil—to forsake the oppressed. Knowing that the Soviets always distort the word "democracy" in describing their own form of government, the enslaved peoples may well wonder why the Western World grasps the phrase "peaceful coexistence" with such enthusiasm.

How shall we convince these peoples that we are not being deceived? Certainly not by accepting the insidious policy of peaceful coexistence which is only a means of lulling us into a state of fancied security.

Episode after episode reveals the belligerent purposes of the Communist regime—its words are at times soft spoken, but its acts are still those of the aggressor, as recent incidents in Indochina, and particularly the repeated shooting down of our planes, will testify.

Let the debate go on. What discussions do we fear?

The basic desire of everybody is for coexistence. The real question is whether it is to be peaceful or peaceless. We must not adopt a do-nothing attitude. There must be a constant survey and resurvey of the acts as well as the words of the Soviet Union.

RESOLUTION OF CENSURE

The Senate resumed the consideration of the resolution (S. Res. 301) to censure the junior Senator from Wisconsin.

The PRESIDING OFFICER. The time of the Senator from Indiana has expired.

Mr. JOHNSON of Texas. Mr. President, I yield to the majority leader 1 hour of the time allotted to the minority leader.

Mr. KNOWLAND. Mr. President, with the understanding that the time is to be divided equally, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. KNOWLAND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KNOWLAND. Mr. President, I yield a half hour to the senior Senator from Utah.

Mr. WATKINS. Mr. President, I rise at this time to clear up some misconceptions with respect to the activities of the select committee in the matter of the reception of evidence at its hearings.

It has been charged repeatedly that the junior Senator from Wisconsin was not allowed to present evidence in his defense before the select committee.

In order to understand the subject, we must examine the situation which existed at the time the select committee began its hearings on the charges which had been prepared, not by the committee but by someone else, and which had been submitted to the select committee by the Senate, as the basis for the investigation and hearings conducted by the select committee.

One of those charges had to do with the activities of the Gillette-Hennings Subcommittee on Privileges and Elections. Charges had been made that the junior Senator from Wisconsin [Mr. McCARTHY] had abused the committee. The charges were that he had written abusive letters to the committee and had refused to cooperate with it.

The Senator from Iowa [Mr. GILLETTE] this morning called attention to the fact that Senate Resolution No. 300 was brought before the Senate to test the very matter that had been charged by Senator McCARTHY. I wish Senators who are lawyers would take particular note of this point. Senator McCARTHY had made a written appearance before the subcommittee when he sent his letters to the subcommittee. He had had full notice of the investigation and its seriousness, and he had sent these letters. Those letters made certain charges, and he said those letters contained his defense.

The subcommittee decided that it would have a definite test made before the Senate. In other words, it would seek a ruling by the only body which could rule on the questions raised, namely, the Senate of the United States.

It invited the junior Senator from Wisconsin to come before the Senate with such a resolution, to wit a resolution proposing that the Senate discharge the subcommittee because of its alleged dishonesty, and because it exceeded its jurisdiction. Its integrity had been attacked, and the members of the subcommittee urged Senator McCARTHY to make that test before the Senate, the only place where such a test could be made. He did not do so.

The subcommittee brought the resolution before the Senate. The resolution was discussed and voted on in the Senate. The junior Senator from Wisconsin was present in the Chamber when the vote was taken. At least, he was present when the debate was had on the resolution. As I recall, he announced that he would vote against the resolution if he remained in the Chamber. He had to leave, as I remember.

Every Senator present at the time, as I recall, voted on the resolution, except Senator McCARTHY, who left immediately after the vote was taken. The vote was 60 to 0 against this resolution.

The Senate at that time was passing on the very defense which Senator McCARTHY had urged as his defense, namely, that the committee was dishonest, that it was conducting itself dishonestly, and that it did not have jurisdiction. That was, I believe, in April 1952.

When the subject was submitted to the select committee, what position were the members of the committee to take with respect to a matter which apparently had been decided by the Senate? Senator McCARTHY still claimed that that was his defense, namely, that the subcommittee was dishonest, that it did not have jurisdiction, and that it was conducting itself dishonestly.

Were we of the committee to say to the Senate that the Senate did not know what it was doing, and that the select committee would reexamine the whole matter?

It was discussed by the select committee, and it was decided that the question was res judicata because a decision had been made by the Senate. The select committee decided that it had been settled that the subcommittee had jurisdiction to do what it was doing, and that the subcommittee was an honest subcommittee. The select committee decided that since the integrity of the subcommittee and its jurisdiction had been sustained by the vote of the Senate, and Senator McCARTHY, the one who had raised the matter as his defense, had abandoned his defense.

He joined with other Senators in saying that he would vote against the resolution. In order to sustain his position, it would have been necessary to adopt the resolution. That would have been a vote to sustain his contention. He had a full opportunity before the subcommittee to present his defense, for he had been invited to appear before it, but he also had an opportunity when before the Senate of the United States, the real court, the final authority, but he abandoned the defense.

That was the legal position in which we found ourselves, and that was the justification for the decision which the select committee made, in a general way, in respect to what we should do with reference to the attack on the honesty, integrity, and jurisdiction of the subcommittee. The Senate can see what it would have meant if the select committee had undertaken to try the Gillette-Hennings committee to see whether it was honest or dishonest. It would have taken many months to have gone into the record again and to examine everything it had done. It was up to the junior Senator from Wisconsin to offer whatever defense he wished to offer before the select committee. In spite of the fact that that question had been settled, and we determined we could not retry the whole question, we, in effect, said, "We are going to do what the Senator from North Carolina [Mr. ERVIN] said the committee had done previously"; and if we erred at all, we erred in favor of the junior Senator from Wisconsin.

So we did actually receive the evidence. The junior Senator from Wisconsin said he had submitted it to the Gillette committee, and we received the same evidence, but gave him a further opportunity to present evidence as to the dishonesty of the committee if he desired to do so, notwithstanding we thought the matter had been settled.

By the way, Mr. President, in connection with this matter, I think this comment should be made; namely, that the

junior Senator from Wisconsin had submitted a resolution asking for the expulsion of Senator Benton, and the resolution was referred to the selfsame committee. The junior Senator from Wisconsin was invited to appear before the subcommittee to testify with respect to that resolution. It is worthy of note that he did appear. He did not object then that the subcommittee was dishonest and that it did not have jurisdiction; he did not object in any way to the subcommittee; he did not object to the fact that Senator Benton was not going to be permitted to cross-examine the junior Senator from Wisconsin when he appeared.

Mr. MONRONEY. Mr. President, will the Senator from Utah yield?

Mr. WATKINS. I do not have very much time, and I dislike very much to yield when I am making my presentation.

Mr. MONRONEY. The only thing I should like to say is that Senator Benton came before the committee to answer those charges when he was invited to do so, in pursuance to the resolution of the junior Senator from Wisconsin on the day of the 60-to-0 vote sustaining the Subcommittee on Privileges and Elections.

Mr. WATKINS. I thank the Senator from Oklahoma.

Mr. President, I shall now go into the record to show what actually happened before the select committee. I shall read excerpts from the record with respect to the presentation of evidence.

At page 354 of the hearing record, volume I, I wish to read excerpts which will show the general trend and the general attitude of the committee:

The CHAIRMAN. I will say, Senator, if you have some testimony from Mr. Carr, we would like to call him to testify about the matter you had reference to.

If you indicate he is to be a witness, let us know, and we will call him.

Senator MCCARTHY. I merely wanted to qualify—I made an answer, Mr. Chairman. I don't argue this other point. I made the answer saying that I relied upon the administrative assistants, and I was going to tell you that Mr. Carr was checking with the telegraph company to find if we did not send wires to all seven Senators to get permission.

He wouldn't know that for some time.

The CHAIRMAN. All right, we can take it up when he gets the information.

The record will show that he never did bring in Mr. Carr with any information showing whether he had sent telegrams to all the members of the committee with respect to the release of the Zwicker testimony.

Another excerpt, from page 359, where Senator HAYDEN was testifying. This is Senator HAYDEN speaking:

Senator HAYDEN. I was advised of the resignation of Senator GILLETTE and Senator WELKER by mail, which I received in Phoenix, Ariz., and at that place accepted both resignations.

I realized, by reason of a suggestion made in Senator GILLETTE's letter, that the subcommittee might continue as 3 rather than to make it 5, that there was a question there. So, I directed the clerk of the committee, Mrs. Grace E. Johnson, to inquire of the Parliamentarian of the Senate as to what the situation would be, and I received from her this memorandum, which I am prepared to read. It it addressed to me and says——

The CHAIRMAN. Mr. Williams.

Mr. WILLIAMS. I would like to see it, if I may, before it goes in.

The CHAIRMAN. Will you please submit it to Mr. Williams?

Mr. WILLIAMS. Thank you, Senator.

Mr. Chairman, this is a memorandum by Grace E. Johnson, as Senator HAYDEN has just indicated, recounting a conversation which she says she had with the Parliamentarian, in which she undertakes to set out the law on this subject as she understands it from her conversation with the Parliamentarian.

I just don't see how this could go in if we are still adhering to the hearsay rule.

The CHAIRMAN. I think your exception or your questioning of the document is well taken.

Another instance, Mr. President, at page 376 of volume I of the record, Mr. de Furia, assistant counsel to the committee, was examining the junior Senator from Wisconsin, who was testifying in his own behalf:

Mr. DE FURIA. I will repeat.

Did you not state in that same letter:

"While the actions of Benton and some of the committee members do not surprise me, I cannot understand your being willing to label GUY GILLETTE as a man who will head a committee which is stealing from the pockets of the American taxpayers tens of thousands of dollars and then using this money to protect the Democratic Party from the political effect of the exposure of Communists in Government."

Senator MCCARTHY. That is a correct quote.

Mr. DE FURIA. Did you have any evidence, Senator MCCARTHY, to support the statements of fact that you made in this letter?

Senator MCCARTHY. Yes.

Mr. DE FURIA. Did you ever produce that evidence?

That was, in effect, an invitation to produce it then if he had it.

Senator MCCARTHY. It was produced in letters to the committee.

He is speaking of the Gillette-Hennings subcommittee. We had every one of those letters in evidence. They were put in by the select committee itself. Here was his own characterization. The evidence he had in support of his statements were in his letters to the select committee, and they were all put in evidence. So I cannot understand why there should be any complaint that he did not have full opportunity to present his case to the select committee, even though, as matter of law, he was not entitled to do so, because the place to have presented his defense was before the Gillette subcommittee before which the Senate Resolution 300 was under consideration. I do not see how any lawyer can get away from that fact.

Continuing with his statement:

Senator MCCARTHY. It was produced in letters to the committee. I pointed out to them exactly what I had in mind, that they were going far beyond the Benton resolution, that they were going back to 1935, that they were making photostats, and I think that photostats cost, I think, in the neighborhood of $1,000 and the correspondence they had with the bank, having nothing to do with wrongdoing, requests for extension of time and payment of interest.

He said he had pointed it out to the committee. He had made his written appearance before the committee. He said, "I put it in my letters to the committee." All those letters were received by the select committee, so we had all his so-called defense.

I shall continue with the reading. In order to present this matter clearly in the RECORD, I must repeat some of it. I read from page 376 of the hearings:

Senator MCCARTHY. * * * I pointed out to them exactly what I had in mind, that they were going far beyond the Benton resolution, that they were going back to 1935, that they were making photostats, and I think that photostats cost, I think, in the neighborhood of $1,000, and the correspondence they had with the bank, having nothing to do with wrongdoing, requests for extension of time and payment of interests.

The bank has answered, granting extension of time, evidence of the payment.

They did me one favor. They proved that no one ever lost one penny by loaning money to MCCARTHY.

Then, I read from page 378 of the hearings:

The CHAIRMAN. That is the question: "Did you ever produce the evidence?" and the answer could be yes or no.

Senator MCCARTHY. The answer is the evidence has been produced.

Those letters were the evidence. I continue:

Mr. DE FURIA. Where was it produced, Senator?

Senator MCCARTHY. Produced by the committee at their own invitation.

Mr. DE FURIA. You did have available to you, did you not, Senator MCCARTHY, an exact financial record of every penny spent by that subcommittee?

Senator MCCARTHY. No.

Mr. DE FURIA. You could have gotten it, I mean, Senator; isn't that correct?

Senator MCCARTHY. I doubt that very much.

Mr. DE FURIA. You did obtain from the committee, however, a record of their employees and salaries, did you not, sir?

Senator MCCARTHY. A record of some of the employees. I believe the letter I got from GILLETTE indicated that there were 2 or 3 other employees not named.

Mr. DE FURIA. Yes, sir; but they did give you full information, did they not, in reply to your inquiry about the employees?

In order to show that the subcommittee was spending tens of thousands of dollars dishonestly in making these searches, direct evidence, competent evidence, would have had to be brought in—the committee books, committee records, and the persons who had charge of those records. That would have been competent testimony as to exactly how much was spent. The junior Senator from Wisconsin never brought in any of the witnesses, nor did he ask to have them subpenaed by the committee, even after the information had been supplied.

On the last day of the hearing, Mr. Williams was asked if he had any further testimony. He said:

Yes, sir. I wanted to call this to the Chair's attention, if all the evidence is in, and I assume it is.

We have nothing further to offer and I understand counsel on the other side has nothing further to offer. Is that correct?

Mr. CHADWICK. That is correct, Mr. Williams.

I also invite attention to the fact that in the very beginning, at the opening of

the hearings, an announcement was made, through the chairman, that the select committee was interested in getting all the material, competent, relative evidence which could be received by the committee for the use of the Senate. That invitation was extended several times throughout the hearing. So when it was stated time and time again by the distinguished senior Senator from Ohio [Mr. BRICKER] that the junior Senator from Wisconsin was not given an opportunity to present his case, his defense, to the select committee, the record is to the contrary to all such assertions which have been made. An opportunity was offered, going far and beyond the ruling or the decision which had been made by the select committee that the entire matter with respect to dishonesty and jurisdiction of the Gillette-Hennings subcommittee had been settled, as a matter of law, by the Senate itself. In spite of that ruling, the select committee allowed and practically invited the junior Senator from Wisconsin to bring in such evidence.

A quotation has been made out of context with reference to a statement I made having reference to the legal situation which existed, namely, that the place to present the case about the dishonesty of the Gillette committee was in the United States Senate. The junior Senator from Wisconsin could have brought such evidence to the Senate, but he did not bring it to the Senate. The committee asked him to do so, but he refused. When the committee did it, to make a test of the situation, the junior Senator from Wisconsin backed down. He had already made what might be termed a written appearance before the committee. He had filed what, in effect, he said was his evidence. He told us the evidence was in the letters he had written.

How on earth can the junior Senator from Wisconsin sustain the charge he has made that he did not have an opportunity to present his defense? He was invited to bring in witnesses and to name the lines of investigation he desired the committee to follow for him. We were willing to do it, because we had taken the position that we wanted to get all the evidence we could obtain in order to help us arrive at our decision. I cannot understand how any person in the situation in which the junior Senator from Wisconsin was at the time, if he knew he had some witnesses, such as the junior Senator from Idaho [Mr. WELKER], and others, who had some firsthand information about the matter, why he did not have these witnesses present.

The junior Senator from Wisconsin had a full opportunity to present evidence. The select committee did not try to anticipate his case or try to prove it for him. The junior Senator from Wisconsin had a full opportunity to bring before the select committee all the witnesses he wished to have called, and at the expense of the United States, because subpenas were signed by the chairman of the select committee, and some witnesses received their pay from the United States.

Mr. HENNINGS. Mr. President, will the Senator from Utah yield?

Mr. WATKINS. I have hesitated to yield, because I have only a very limited amount of time. There are other matters which I wish to take up this afternoon, and I want to conserve my strength.

Mr. HENNINGS. I shall not intrude upon the time of my distinguished friend; I simply rose to compliment, pay tribute to, and make one or two other observations about the Senator's work and the work of the other members of the select committee. But I shall do so later.

Mr. SALTONSTALL. Mr. President, will the Senator yield for one question on the point which he has just discussed?

Mr. WATKINS. I yield. I wish to be courteous.

Mr. SALTONSTALL. I appreciate that. The Senator from Utah is essentially a fair man.

Does the Senator from Utah draw a distinction—and if so, what—between having the Senate act on the Bennett amendment, which is now lying on our desks, and having the Senate act on the charges in that amendment, without reference of the amendment to a committee, and the vote of the Senate in referring the charges made last August to a committee, rather than acting on them without any committee recommendations? That is the first part of the question.

I should also like to have the answer of the Senator on this matter, in the same connection: What is the distinction between having the Senate act on the Bennett amendment with relation to the junior Senator from Wisconsin and the attitude expressed so clearly by the senior Senator from Arkansas [Mr. MCCLELLAN] relative to a censure charge being brought against any other Senator, when such other Senator would have, under the unanimous-consent agreement, only one-half hour to respond to a censure charge? There are really two questions.

Mr. WATKINS. There is a difference between the situations. Forty-six charges were in the original material which were given to the select committee to work on. They involved a long period of time and some rather voluminous records. That was a situation in which the Senate was justified in saying that it could not consider all those matters very well as a body, because it would have involved too which detail and required too much time of the entire Senate.

Those charges did not allege the commission of offenses—at least all of them did not—in the presence of the Senate itself. The charges in the Bennett resolution all relate to matters of conduct by the junior Senator from Wisconsin while a proceeding in the nature of a judicial hearing was pending before the Senate of the United States. This entire proceeding had been set for consideration by a special session, involving a return of the Senate to Washington, to hear the matter. All the circumstances and allegations of misconduct in the Bennett amendment have to do with the conduct of the junior Senator from Wisconsin while a proceeding in the Senate was pending against him. They are all of a nature which he must have known and understood at the time he made them; and he either had a defense or did not have a defense.

For example, let us consider the oblique attack on the Senate of the United States. I say it is oblique, because it is a characteristic of the McCarthy way of doing things. The junior Senator from Wisconsin referred to this proceeding as a "lynching bee," with all the ugly implications which grow out of such a term. The junior Senator from Utah [Mr. BENNETT] discussed it last night. Every Senator who has been considering charges against the junior Senator from Wisconsin has been charged by him, in an effort to prevent the adoption of the censure resolution, with an attempt to lynch him, to proceed without any semblance of law and order, and as a mob. That is in effect of what he was saying, and that is an attack upon the Senate of the United States. No one can tell me that when a Senator, a Member of this body, goes so far as to say that the tribunal which is hearing the matter is made up of mobocrats, and that they were going to lynch him, such an attack does not have a tendency to bring into disrepute the entire Senate of the United States. That statement was made before millions of people via television. There cannot be any question whether the junior Senator from Wisconsin said it or did not say it. That statement was contemptuous in the extreme and was made almost in the very presence of the court, while the very matter of the charges made against the junior Senator from Wisconsin was pending, and in which he was the subject of proposed censure.

The same statement applies to the rest of the Senator's conduct. He attacked an agency, an arm, of the United States Senate, when he stated that three Members of the committee which had been appointed by the Senate were guilty of fraud in that they did not tell the Vice President that they were biased, and that they were guilty of deception. The junior Senator from Wisconsin stated that in a letter to me as chairman of the committee. He would not have been writing me letters if I had not been chairman of the committee. That charge was an attack on the very body considering his case while the case was pending.

There was also filed in the Senate itself the so called "handmaiden" or hit-and-run speech. The junior Senator from Wisconsin stated he did not have time during the day to deliver it, although we were hunting for persons to fill in the program that day. The junior Senator from Wisconsin put the speech in the RECORD by unanimous consent, and in it he made the most dastardly charges against the select committee, and against the whole Senate, because we were the agents of the Senate. I defy anyone to show that the select committee was acting outside the scope of the authority which the Senate gave it. We were charged with being attorneys-in-fact to the Communist conspiracy, and

with following the Communist line. Those statements were made.

As the junior Senator from Utah [Mr. BENNETT] stated last night, those statements were libelous per se. There is no question about it. The statements libeled and slandered an arm of the United States Senate. It is in line with the pattern of stating, "You are lynchers. You act as a mob, without law or semblance of law."

The junior Senator from Wisconsin has known about these matters. I called them to his attention Tuesday, in a speech on the floor of the Senate. The junior Senator from Wisconsin has known an amendment would be prepared and presented to add to the proposed censure resolution. Shortly thereafter the junior Senator from Utah [Mr. BENNETT] notified the Senate he would propose an amendment such as he did offer. The Senate does not have to have committees to do the work of the Senate, unless it wants to. The only requirement is that the Senator accused must have an opportunity to present his defense. When the junior Senator from Wisconsin made his charges, they were false—just as false as they were vicious. He should have known he was going to have to back them up if he intended to use them as an affirmative defense.

That is the answer to the first part of the question of the Senator from Massachusetts. What was the second part?

Mr. SALTONSTALL. The second part of the question is, How does the Senator from Utah draw a distinction between the action of the Senate last summer in referring the matter to a committee, and the attitude expressed so clearly by the senior Senator from Arkansas [Mr. MCCLELLAN] the other day relative to a charge being brought against another Senator when he would have only a half hour to answer, as would have been the case under the proposed unanimous-consent agreement?

Mr. WATKINS. I think if Senator MCCARTHY had had only a half hour to present his defense, and he had not known about the charge until a Senator presented it in the half hour preceding, the statement made would absolutely apply; but this is not new matter. This was matter which the committee was already investigating and on which the committee was holding hearings. Remember that the Senate is the body which holds the trial, not the committee. What would happen? I can read it just as if it was written in letters 10 feet high.

The PRESIDING OFFICER [Mr. BENNETT in the chair]. The time of the senior Senator from Utah has expired.

Mr. WATKINS. Mr. President, may I have a few additional minutes?

Mr. KNOWLAND. Mr. President, I yield 5 additional minutes to the Senator from Utah.

Mr. WATKINS. If that matter were to be referred to a committee at this time, the Senate would be right where it was in 1952. There will soon be a new Congress. The report of the Hennings-Gillette subcommittee was not presented until January 1953, there was not time to act on it, and the Republicans did not push it when it was referred to them. If the charge is to be referred to a committee, the Senate will not possibly be able to do anything about the matter, because the Senate will not stay in session while the committee considers it, and then there will be a new Congress. No one has to be a prophet to read what will be written: "It was in the 83d Congress. We are now in the 84th Congress, and you can't go back. The statute of limitations has run."

Do my colleagues see the position the Senate is in? To me the conduct of the junior Senator from Wisconsin, much to my sorrow—and I mean that sincerely—has been of this nature: He was charged with abusing the Gillette-Hennings subcommittee. His answer to that charge is to abuse the Watkins committee, only he goes at it with more vehemence. Senator HENDRICKSON was cowardly and he was kind of stupid, but at that time the junior Senator from Wisconsin used the words, "He was a living miracle, without brains or guts." When the junior Senator from Wisconsin described the chairman of the select committee, he said that the chairman was stupid and was a coward. There is very little difference except in the words used. They mean the same thing, except that the Senator has sort of improved a little since he made the original charges.

Mr. WELKER. Mr. President, will the Senator yield for a question?

Mr. WATKINS. I shall yield for a few brief questions, because my time has about expired.

Mr. WELKER. I invite the attention of the Senator to page 296 of the hearings. I will ask the Senator if it is not a fact that the chairman announced that any evidence of justification would be subject to the rule of the distinguished chairman, the Senator from the State of Utah, as follows:

> I do not see that this is material. The letter, of course, speaks for itself, but I should say in addition to that the matter is immaterial. The matter that is material here is whether the committee, in view of the ruling, whether the committee had jurisdiction and whether an investigation was actually going on.

Being the able judge and lawyer that the distinguished Senator from Utah is, is it true that at the close of the testimony the Senator asked the junior Senator from Wisconsin, "Do you have any more evidence to offer?" In other words——

Mr. WATKINS. Wait a minute. The Senator asked a question. Let me answer it. I am not going to have a dozen questions asked me at one time. The statement that was made was taken out of context, as I have suggested. Prior to that time a letter regarding the so-called insane man had been put in the record by the committee, and the Senator himself had said that the letter contained his testimony or evidence. The committee already had that letter before it, and he made that statement. Later on the committee allowed the junior Senator from Wisconsin to go on, as is shown, in examination by Mr. de Furia, and the Senator was asked for the evidence. He was asked, "What evidence do you have?" We did not feel as a matter of law that the Senator was entitled to do that——

Mr. WELKER. And the Senator so ruled, did he not?

Mr. WATKINS. No. We let the Senator go ahead and put in all that evidence, all he wanted to.

The PRESIDING OFFICER. The time of the Senator from Utah has expired.

Mr. WATKINS. He had already put in the evidence about the insane man; and the insane man, by the way, never did appear before the Gillette subcommittee.

Mr. President, that is the gravamen of the situation. I now yield the floor.

The PRESIDING OFFICER. The time of the Senator from Utah has expired.

Mr. KNOWLAND. Mr. President, let me inquire how much time remains to our side.

The PRESIDING OFFICER. The Senator from California has 23 minutes remaining under his control.

Mr. KNOWLAND. Then I yield 23 minutes to the Senator from Illinois [Mr. DIRKSEN].

Before the Senator from Illinois proceeds, Mr. President, I ask unanimous consent that at this time there may be a quorum call, with half of the time required for it to be charged to the time available to each side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KNOWLAND. Then, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. First, let the Chair remind the Senator from California that if the roll is called at this time, it will reduce the remaining available time.

Mr. KNOWLAND. I understand.

The PRESIDING OFFICER. Very well.

The absence of a quorum being suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KNOWLAND. Mr. President, I ask unanimous consent that further proceedings under the order for the call of the roll be dispensed with, and that the order for the call of the roll be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON of Texas. Mr. President, I yield 30 minutes of my time to the distinguished majority leader.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. KNOWLAND. Mr. President, let me inquire how much time originally remained to me, under my control?

The PRESIDING OFFICER. Twenty-three minutes, but it has been diminished by one-half of the time required for the proceedings under the call of the roll; therefore, only 19 minutes of the former 23 now remain under the control of the Senator from California, plus the additional 30 minutes yielded to him by the Senator from Texas [Mr. JOHNSON]. So a total of 49 minutes is now available to the Senator from California.

Mr. KNOWLAND. Mr. President, I yield 49 minutes to the Senator from Illinois [Mr. DIRKSEN].

The PRESIDING OFFICER. The Senator from Illinois is recognized for 49 minutes.

Mr. DIRKSEN. Mr. President, I am afraid I am the victim of a bit of a parliamentary snarl, and probably it ensues as a result of my own feeble familiarity with the rules. At the time when I was contemplating proposing a substitute for the pending resolution, I had in mind that it would be possible to secure a vote on the substitute before a vote was taken on section 1 of the pending resolution. However, I am informed by the Parliamentarian that, under the rules, the substitute would have to be considered as a motion to strike out and insert, and that there would have to be a vote on the language as it now stands in the committee resolution. Consequently, if what I have in mind is offered as a substitute, no vote can be taken on it until the perfecting amendments have first been disposed of by the Senate.

I consider it appropriate at this time to advise the Senate as to what I had in mind by way of a substitute. Let me make it as clear as possible that this is no compromise. When we compromise we find some half-way mark. If we are dealing with appropriations, if the sum of $1 million is involved, and someone suggests $500,000, perhaps a compromise is three-quarters of a million. If we are dealing with the authority which is extended to a Federal agency, sometimes we can compromise with respect to the limitations on such authority. But frankly, when we are dealing with what I esteem to be a principle, I know of no way to compromise. If the question is as between a good sound spanking and a little spank, that involves a matter of principle, and I say that I can draw no line.

So I say to the Senate that this is no compromise proposal. This is, in truth and in fact, a substitute. Probably it is not in the best legal form, because I put my argument in the pleadings. However, I should like to read it to the Senate at this time, before we reach the limitation of debate at 3 o'clock.

If I were at liberty under the rules so to do, I would strike out all the language of section 1 after the word "resolved" and insert the following:

That with respect to the report and recommendations of the select committee, a reasonable doubt exists as to the authority of the Senate to censure or condemn a Senator for language or conduct in a prior session of the Congress; that no rule presently exists under which censure or condemnation for the alleged language or conduct might be justifiably imposed; that a Senator is under no legal duty to appear before a committee on invitation and that censure was not heretofore proposed where a Senator refused to appear before a committee; that censure or condemnation while not depriving a Senator of any privilege or prerogative is punitive in nature and might, therefore, be considered ex post facto in character, if imposed for language or conduct in a prior Congress; that there has been no violation of Senatorial tradition as evidenced by countless instances of robust and salty phraseology in Senate debate dating back to the first Congress in 1789; that there is no evidence to establish that the constitutional processes of the Senate were in fact obstructed; that the failure of the complainant Senators to raise questions of conduct on January 3, 1953, when the oath was administered to the Senator from Wisconsin [Mr. McCARTHY], precludes a valid consideration of the charges and allegations in section 1 of the resolution reported by the select committee——

Mr. HENDRICKSON. Mr. President, will the Senator yield?

Mr. DIRKSEN. I yield.

Mr. HENDRICKSON. Will the Senator read the last statement again?

Mr. DIRKSEN. It is as follows:

That the failure of the complainant Senators to raise questions of conduct on January 3, 1953, when the oath was administered to the Senator from Wisconsin [Mr. McCARTHY], precludes a valid consideration of the charges and allegations in section 1 of the resolution reported by the select committee.

Continuing:

That censure for the use of allegedly intemperate language in interrogating a witness does not in the light of all the circumstances involve the good faith which must be maintained between the executive and legislative branches of government; that the Congress does have the right to examine into the applicability of an Executive order or directive especially where the internal security of the Nation may be involved; that while abusive or intemperate language is to be deplored, it does not in the light of precedent warrant formal censure or condemnation as proposed in sections 1 and 2 of the resolution reported by the select committee.

I had added two other provisions or clauses, but when the unanimous-consent request was finally agreed to, I discovered that under the rule of germaneness those clauses would be out of order. However, I think I ought to read them to the Senate for information. One of them reads as follows:

That the Rules Committee give immediate attention to the formulation of rules and procedures respecting the conduct of investigations, the decorum of Members, and the disposition of motions to censure.

The final provision was:

That the Senate reaffirm its duty and responsibility, through its appropriate committees and procedures, to investigate and expose the international Communist conspiracy, which is a menace to free American institutions.

The entire purpose of the substitute was to preclude a vote on section 1 of the pending resolution, because the proposed substitute is diametrically opposed to it. I take a position against censure and condemnation for a great many reasons, including many which have already been advanced in the course of general discussion on this floor.

If I may, I should like to address myself without interruption for a little while to the question before the Senate. It seems rather fantastic that 21 years after the recognition of the Soviet Union the man who is regarded in this country and in the rest of the world as the principal Red hunter should be on trial. It is rather fantastic that after the exchange and consummation of correspondence between the then President of the United States and Michael Kalinin, of the Presidium in Moscow, and 21 years after recognition, we should have on trial a fellow Member of this body, because of some salty language and because of some alleged misconduct.

I recall that in November of 1933 the national commander of the American Legion, who came from my State, delivered a dedicatory address at the Tomb of the Unknown Soldier. Recently I obtained a copy of that address. He admonished the country and took a position, as the national commander of a great patriotic body, against recognition, with all the implications and perils which would follow in its trail.

So here we are, 21 years later, considering censure and condemnation proposals with respect to a fellow Member of this body. We have been beset with letters and petitions. I noticed in the press the other morning quotations from a number of Members of this body on the subject of whether or not the sentiment for or against Senator McCARTHY had shifted, whether or not the people who were vocal and who were expressing themselves in all sections of the country had now shifted their opinion.

That is rather strange, Mr. President, when a Senator is on trial, because if, as has been contended on occasions, this is a judicial proceeding, it is strange that the judges should be subject to all the pressures and influences of names, letters, telegrams, and petitions.

As for me, I will resolve the question on principle, as best I can. I can assure the Senate, feeble as the assurance may sound, that there will be no politics in that judgment. Frankly, I do not know what is the popular course. I receive as many letters and telegrams as does any other Member of the Senate on this subject. When the McCarthy-Army hearings were in progress more than 150,000 letters and telegrams came to my office, showing how volatile and explosive is the public mind on the issue of Senator McCARTHY. But for me the decision will be on a question of principle. I do not care how many petitions and resolutions reach my office. Whatever my conscience dictates, that I must do. That I will do; and I will do it without any regard for my political future, because that is of no consequence when a great principle is involved.

It seems to me that, by way of approach to our duties and responsibilities when the hour of judgment arrives, we could be a little kinder. We could be a little softer in our language. We could be a little more dispassionate. The judgment is coming in the month of December. There in a great tradition connected with that month. Only a week or more hence we shall observe the anniversary of the outraging of our moral and physical frontiers in the Pacific, when the bombs fell at Pearl Harbor, precipitating us into the greatest conflict mankind ever saw. It was a conflict which started with a black Hitler and wound up with a Red one. That Red one is the cause of all trouble and all concern, not only for the Senate and our coordinate body, the House of Representatives, but for the people of this country, who are so interested in the preservation of freedom.

The judgment will also come in the month of Christmas. I had a moment to spend downtown the other day. I could hear all the gramaphones and radios pealing out the lovely words and phrases

which somehow give animation to people in this one season and that somehow soften the spirit.

Hark! The Herald Angels Sing.

O Little Town of Bethlehem.

For once the spirit, in a cynical and material age, is lifted for a little while, and the great pulsing throb of sentiment is:

Peace on earth; good will to men.

I wonder, as I see how sharp is the language that is used, where is the fortifying sentiment of good will that comes coursing down and softens the spirit? Where is the good will? I merely wish to say to Senators: Let us think about it a little.

Finally, this judgment will come in the month in which we observe the 10th Christmas in the atomic age. Oh, what progress we have made in the field of physical fission. How little progress we have made in the field of spiritual fission. There is still very much of the jungle in us.

I allude to these things today because I think of the softer approach we should use in discharging our responsibilities.

Long ago Marcus Aurelius said:

Forbearance is a part of justice.

Let us ponder that when we think of the dignity and the traditions of the Senate. This is a great deliberative body. Mr. President, I would rather have the people of this country say the greatness of the Senate in an hour like this lies in its forbearance.

Is there anything absolute in our judgment in standards of conduct? How does one judge?

I see on the floor the distinguished senior Senator from Georgia [Mr. GEORGE]. I see other Senators on the floor who have served in the Senate much longer than I have. I am sorry that when I saw the reference in the press to the long service of the senior Senator from Georgia I did not take the time to send him a telegram of felicitation for the service he has rendered to the people of our country and to those of his great sovereign State. I believe the senior Senator from Georgia was a Member of the Senate when Senator Walsh, of Montana, was also a Member. He was a great crusader. Yet the New York Times called him the "Montana mudgunner." He was the one who found something that the Republicans should not have been doing and exposed it. What was the judgment of the New York Times, one of the great newspapers of our country? They referred to him as the "Montana mudgunner."

Even in the days of ancient Greece judgments were not absolute. Plato, in felicitating the Athenians, congratulated them as possessing "pure heartfelt hatred" for their enemies. That was many centuries ago.

As I see sometimes evil, cold, and malevolent hate display itself, it distresses me no end.

I wish JOE MCCARTHY were present, so that I could say this to his face. Perhaps he would not like what I am about to say, and I might even be censured, if he were to take exception to what I am about to say. However, JOE MCCARTHY, in the language that I understood in my neighborhood when I was a boy, is something of an alley fighter. That is a pretty good description.

He is no master of the English language. He does not know all the fine and tripping phrases. There is a bluntness about his spirit. When he came full tilt against the great insidious and malevolent force that would threaten this country, he responded to every instinct, to all the feelings that were aroused in the spirit of JOE MCCARTHY, himself.

We ought to be rather forbearing when we come to make an absolute judgment.

Who of us timid people would have done that job? Who would have taken upon himself the harrassment that began with the speech in Wheeling 5 years ago? Oh, the harrassment and vilification and abuse. Who would have taken that? I doubt whether I would have done so. But he stood up.

It has been said that he never sent one person to jail. The answer is, of course not. The Senate is not a court. We are not district attorneys. His job was to alert the American people, to lift them out of lethargy, so that they could see in precise focus this frightful force that menaces our country, even at this good hour.

So here comes a great crusader, not too polished in his approach, not too felicitous in his selection of words and phrases, to do battle with this insidious force.

If he has strayed a little from decorous language, I can still find it in my heart to be entirely forbearing about it, because of the great work he has done.

I have a quotation before me. It is of a remark made by former Senator Wheeler, published in the newspapers a day or two ago. He said:

How thin-skinned has the Senate become?

We do not pay so much attention to what is said by outside agencies. Let me read a few quotations. I trust I can do it within the rule, and not invite censure for myself in doing so. I shall read the quotation and then give the source:

A more weak, bigoted, persecuting and intolerant set of instruments of malice and every hateful passion were never assembled in a legislative capacity in any age or any land.

That was written about the United States Senate. When? On the 20th day of March 1837, in the Baltimore Republican and Commercial Advertiser.

I read another quotation:

The Senate is the pitiable state of body that abdicates its legislative function through sheer weakness and cowardice.

That is not the language of the junior Senator from Illinois. That language was contained in an editorial printed in the New York Evening Post, quoting the Portland Oregonian, of October 10, 1893.

I read again:

Does the Senate understand that at the present writing it is the most thoroughly despised body of public men in the world?

That is not the language of the junior Senator from Illinois. That is taken from the Indianapolis News of September 27, 1893.

I read again:

If God had made Congress, he would not boast of it.

That quotation comes from the Albuquerque Morning Journal of January 28, 1908.

I read again, Mr. President:

How can we expect integrity and uprightness in our legislatures or in Congress when the barrooms and bullies furnish most of the candidates?

That is from the United States Gazette of September 15, 1857.

I add 1 or 2 more. There is not a lawyer in this body who is not familiar with the author of what I am about to read; and I read it now:

The senatorial debauch of investigations * * * poking into political garbage cans and dragging the sewers of political intrigue * * * filled the winter * * * with a stench which has not yet passed away. Instead of employing the constitutional, manly, fair procedure of impeachment, the Senate flung self-respect and fairness to the winds. As a prosecutor, the Senate presented a spectacle [and] fell * * * in popular estimate to the level of professional searchers of the municipal dunghills.

Who was the author of that statement? The greatest authority on evidence I ever encountered was Dean Wigmore, of my own State. He wrote that in the Illinois Law Review in 1925.

Others are not very thin-skinned about what they say about this body. It seems to me, Mr. President, there is a little more robustness, there is a little more vital fiber, there is a little more resiliency in this body than all that.

I add one more quotation to make the record complete:

The constitutional guaranty against unwarranted search and seizure breaks down, the prohibition against what amounts to a government charge of criminal action without the formal presentment of a grand jury is evaded, the rules of evidence which have been adopted for the protection of the innocent are ignored, the department becomes the victim of vague, unformulated, and indefinite charges, and instead of a government of law, we have a government of lawlessness. Against the continuation of such a condition, I enter my solemn protest.

Does the Senate know who said that? Calvin Coolidge said that about the investigatory powers of the United States Senate.

So, Mr. President, at the very outset, I say to my fellow Members that I think we must be forbearing. I think we can be a little dispassionate; I think we can be a little softer, and that this is the season of the year when men from pole to pole exemplify that great throbbing sentiment "On earth peace, good will to men."

I pay tribute to the select committee. I say to those distinguished men that it does not make me feel good to see these rather casual, severe, and testy remarks made.

I served in the House of Representatives with the Senator from South Dakota [Mr. CASE]. I served in the House of Representatives with the Senator from Kansas [Mr. CARLSON]. I served in the House of Representatives with the Sen-

ator from North Carolina [Mr. ERVIN]. For all of them I have a great affection. I have an equal affection for the Senator from Utah [Mr. WATKINS], who is one of the most pious and devout Members of this body. I salute him for the great and chastening force he has brought to the Senate. The members of this committee are men of probity and character. I say to the distinguished Senator from Mississippi [Mr. STENNIS] that one of the things that gave me great delight was to go to Kentucky to deliver a commencement address at a small college in the hills, and the man who delivered the invocation on that occasion was the pastor of the church where the Senator from Mississippi worships. The fine testimony he gave to the Senator's character made me feel good, and I hope some of it rubbed off on me on that occasion.

So, Mr. President, I have nothing but the highest praise for the members of the select committee. But I say, Mr. President, that even six men can be fallible, even when unanimous in their opinion.

Mr. President, the first vote I cast in 1933 found me as one of a very small minority, and my soul quaked and my spirit drooped. I was a freshman Member of the House, and I saw a premature end to my political career as the telegrams and letters rolled in. But I lived to see the day when truly every jot and tittle, every phrase, clause, and comma, of that so-called Economy Act, which was not even in legislative form when it was adopted by the House in 1933, has been washed from the statute books of our country.

Yes, Mr. President; six men, notwithstanding their character, their probity, their judgment, could be fallible in this particular instance.

So I want to come to the resolution and to the proposals which have been made, but before doing so I reassert what I said to the Senate briefly a few days ago, that this is not a judicial proceeding. This is a legislative trial. There is no presiding judge to note exceptions which might be made by counsel. This is a legislative procedure, pure and simple—a legislative trial. The astonishing thing is that on occasions I have noticed that 85 percent of the membership of the Senate was not on the floor when the political life of one of our colleagues was in jeopardy. I do not scold. I admit my own sin in the matter. I boarded a plane at 2:30 o'clock yesterday to go to Chicago to receive an award and to make a speech. I got on a plane at 1 o'clock this morning, in the snow and the rain, to return to the Capital. But if a single member of a jury walked out when a trial was in progress in a court it would result in the declaration of a mistrial right then and there.

We know the whole story, the whole argument. This procedure is being conducted in a political atmosphere. I do not say that invidiously. I am proud of it. This is a political body. No one apologizes for it.

I see my good friend from Montana [Mr. MURRAY] seated here. I did my best to accomplish the defeat of the Senator. We live by political victories. We are thinking now about the transfer of control and who is going to run the legislative show come January 1955. Why, Mr. President, when the day comes that this is not a political body, when there is not a line between two virile, vital institutions, that is the day when I shall be filled with despair, because I shall begin to see the end of America as we once knew it.

This is a legislative trial, in a political atmosphere. If it were judicial, Mr. President, what can be said about the pressures, about the people who write to the judges and send them telegrams and say "Do this" or "Do that." What shall we say about the millions of names which will probably be delivered to the Nation's Capital. A strange way to conduct a trial; is it not? Is it judicial? Far from it, Mr. President, as a matter of fact. How strange it is, when the political future of one of our colleagues is in jeopardy, as compared with the impeachment rules. How carefully they have been drawn, so that in every stage of the proceedings the right of the person accused is fully protected. There is nothing like that here today. There is no judge who sits to rule on the competence of what is said. It is not a judicial proceeding. There is no statute of limitations, as the distinguished majority leader pointed out yesterday. There is no appeal to a less political body than this.

So I simply say, Mr. President, it is small wonder that that great student of jurisprudence, Dean Roscoe Pound, looked down his nose a little when it came to a legislative trial. I quote him, in part. He said:

> Legislative justice is unequal, uncertain, and capricious.

He goes away back to ancient times.

> In the second place, legislative justice in its relatively short history in this country and in the relatively small number of cases in which it was exercised showed the influence of personal solicitation, lobbying, and even corruption far beyond anything which even the most bitter opponent of our judicial system has charged against the courts in the course of a long history and after disposition of a huge volume of litigation.

Dean Pound goes on to say:

> Thirdly, legislative justice has always proved highly susceptible to the influence of passion and prejudice.

Then he says:

> The preponderance of purely partisan or political motives as grounds of decision is another characteristic.

Then he says:

> Finally, legislative justice has been disfigured very generally by the practice of participation in argument and decision by many who had not heard all the evidence, and participation in the decision by many who had not heard all the arguments.

This is the language of probably the foremost student of jurisprudence in our land, who speaks thus of legislative justice and legislative trial.

I now come to the resolution.

Mr. President, may I respectfully inquire how much time I have remaining?

The PRESIDING OFFICER (Mr. WELKER in the chair). The junior Senator from Illinois has 14 minutes remaining.

Mr. DIRKSEN. Is there some opportunity to get a little more time, so that I may be able to fill in a large part of what I have to say?

Mr. KNOWLAND. The majority leader has no additional time remaining; but the minority leader has been very generous in making time available.

Mr. JOHNSON of Texas. How much time does the Senator desire?

Mr. KNOWLAND. I hope the Senator from Texas will bear in mind that there are additional speakers on my side to whom I have made some commitments.

Mr. JOHNSON of Texas. In line with the traditional Democratic policy of not interfering with internal policy on the other side of the aisle, I yield 15 additional minutes at this point to the Senator from California.

Mr. KNOWLAND. I yield 5 additional minutes to the Senator from Illinois.

Mr. DIRKSEN. Mr. President, will the Senator make that 10 minutes?

Mr. KNOWLAND. I will make it 10 minutes.

Mr. DIRKSEN. I might inform the Senate, then, that I shall change stance somewhat. I shall get around to a discussion of the resolution later this afternoon, and to the provisions of the substitute and of the resolution itself. But now, in line pretty well with what I have said, there is a statement in the resolution to the effect that what has been done has been contrary to tradition. I want to take the remaining time—and I hope it will be sufficient—to discuss tradition a little. It is a good word.

When a person makes a speech and cannot think of some other word to use, he can fall back on the word "tradition." It is always a splendid word and covers a multitude of sins. But it has a definite and precise meaning. It means the whole bundle of hopes, of aspirations, of achievements, and of accomplishments of the country. It means Lexington and Concord, and Valley Forge; it means Bunker Hill, the Declaration of Independence, and the Constitution; it means the utterances of the great men who have sat in this body.

It is the whole bundle of what we are, what we have been, and what we hope to be.

So I was very much interested in going back to find the utterances of those who have walked across the pages of tradition. I go back, for instance, to 1890, at the time of the 51st Congress. The time was June 25, 1890. One of the great, fluent Members of the Senate was John J. Ingalls, of Kansas. He was in an altercation with Senator Call, of Florida. What did Senator Ingalls say? He said:

> The Senator from Florida has not only, in my judgment, grossly violated and abused the privileges of the Senate, but he has deliberately falsified the record of what appeared on the day when the transaction took place. * * * The Senator from Florida has falsified the record by omitting the words, "in an appendix to these remarks."

They spoke their business very freely, those great predecessors of ours, who were from long ago.

I come down to 1917, to the 64th Congress. I think of that man from Mississippi who had such an able, sharp, and tripping tongue. His name was John Sharp Williams. His name was a household word for eloquence in many

sections of the country. What did he say on the 24th of February 1917? He said:

I learned from the newspapers this morning that the Republican Party has made up its mind to filibuster in order to have an extra session. I understand that the reason is given that they do not want to leave the President * * * just as the Copperheads did not want to leave Lincoln, with power to act, but I do not think that is the real reason. I think your real reason is that you have received orders from the munitions factories * * * that have hitherto been generous contributors and that you ought to remember them.

That statement was uttered on the Senate floor in 1917.

I go to the 66th Congress. This is Senator James A. Reed, of Missouri, speaking:

Members of the Senate do not know about it. They retire to the cloakroom, they play the part of the snapping turtle, who, when disturbed, pulls in his head, pulls in his tail, shuts down his shell, and closes up. They are determined to vote for this League whether it is right or wrong. * * * Their massive minds are in a static condition and cannot be moved. * * * A number of gentlemen * * * [will vote] for reservations. * * * A reservation is the last resort of cowardice. It is the hole through which the little soul of a fellow who is not willing to stand up and front the people seeks to escape from responsibility. It is the crack in the fence through which a hound dog always seeks to escape. The mastiff turns at bay and fights, or else he takes the fence at a jump. He does no cringing and crawling and whining, and some of them have their heads stuck in the crack now and do not know whether to back up or go ahead.

That was language on the floor of the United States Senate.

I go to the 67th Congress, Senator Tom Heflin, of Alabama, speaking. What did he have to say to this body? I read his remarks on June 22, 1922; but, first, I read the statement of Mr. Glass, the eminent Senator from Virginia:

Mr. GLASS. I deny absolutely that there is a single inaccuracy in the speech to which the Senator refers. I am getting very tired of these utterly false accusations by the Senator from Alabama.

What was the rejoinder?

Mr. HEFLIN. If the Senator charges me with making a false statement, he is a liar.

Oh, yes, Mr. President, there were Senators years ago who were accomplished in the art of salty phraseology.

I go now to the 68th Congress. This is Senator Ernst speaking. I read his language on the 14th of March 1925, in the special session. He said:

I wish to know if there be any way under the rules of the Senate whereby I can, without breaking those rules, and without offending the Senators about me, call a fellow Member a willful, malicious, wicked liar. Is there any way of doing that?

Well, there was no way of doing it. [Laughter.]

I go to the 69th Congress. This is Senator Couzens, of Michigan, speaking, and the date was February 8, 1926:

I want to register a complaint against unanimous-consent agreements.

That sounds familiar, does it not, Mr. President. [Laughter.]

I consider that I was tricked by the Senator from Utah [Mr. Smoot] * * * it was perfectly obvious that within the hour and a half the argument that I proposed to put in behalf of this amendment was blocked by the sharp practice of the Senator from Utah.

That statement was uttered on this very floor, where we are conducting the legislative trial of one of our colleagues today.

I go to the 71st Congress, Senator Heflin, of Alabama, speaking again.

In the second session, January 6, 1930, he said of Senator Phipps, of Colorado:

If the Senator, who is a man of tremendous wealth, wishes to——

There there is an interruption. When Mr. Bingham made the point of order that the Senator from Alabama was infringing the rule prohibiting a Member from imputing to another Senator a motive unbecoming a Senator, the Vice President directed Mr. Heflin to take his seat.

The amazing thing is that there have been imputations of one kind or another over a long period of time. How careless we have become as a body. Maybe all this would not have happened if we had performed our duty fully.

I come now to the 73d Congress, April 5, 1934, and to what was said by the Honorable Huey Pierce Long, of Louisiana. His very able, noted, and redoubtable son graces this body, and is a fine public servant. I salute him; but this was what the Honorable Huey P. Long said on April 5, 1934:

We all have our way of working. One is just as honest as the other. One is, catch your friend in trouble, stab him in the back, and drink his blood. The other is, stand by your friend and try to heal his wounds.

Pretty robust language, is it not, for the Senate floor, Mr. President?

In the 75th Congress, 2d session, then Senator Bennett Champ Clark, of Missouri, stated on November 19, 1937:

I can readily understand how it may be irksome to the Senator from Texas to have these exhibits presented. It may cause some faint flurry of that conscience for which the Senator from Texas used to be renowned, but which his conduct this week has led most of us to believe has become calloused.

Robust language for this body. They were not quite so sensitive, Mr. President. They did invoke the rule, but they did not propose to censure a Member.

I go to August 6, 1940. Senator Rush D. Holt was speaking in the 3d session of the 76th Congress. Before I read that, I wish to read the words of a man who today graces the Supreme Court, and who was once a Member of this body, the Honorable Sherman Minton, of Indiana. I have counted him as a long-time friend. On that day he said:

When I was over in France in 1917 and 1918, the father of the Senator from West Virginia was preaching that people should not raise any food to send to me and my comrades. * * * The father of the Senator from West Virginia sent his son * * * to hide away in South America to avoid the draft. * * * That is the kind of patriotism that is represented by the Senator from West Virginia.

Mr. HOLT. * * * I will answer his malicious lie. * * * If ever the administration wants filth to be thrown they get the Senator from Indiana to throw it.

Mr. MINTON. And when Hitler wants it thrown you throw it.

Pretty salty language, is it not, Mr. President, for the floor of the United States Senate?

I refer now to the 78th Congress and to the language of one who happened to be my predecessor in Congress, the Honorable Scott Lucas, who was at one time majority leader of this body. This occurred on December 15, 1943. He was taking Senator Moore, of Oklahoma, to task. He stated:

When he [Mr. Moore] gave out that statement he charged every Democrat and Republican who voted for the bill with a conspiracy to steal the election in 1944 * * * and he says he does not charge [that] by implication * * * any fair and prudent mind, any reasonable mind, any decent mind cannot read any other interpretation into it but that. * * * But the Members of the Senate refused to dignify the Senator from Oklahoma by making any reply, until he comes along with his contemptible speech today.

It was my predecessor in the United States Senate who said that.

I come now to the 79th Congress. On May 23, 1946, the Senator from Idaho, the Honorable Glen H. Taylor, said:

I am beginning to agree with the oldtimers [that the Senate does not have the caliber of men in it nowadays that it used to have]. * * * Already the very ones whom the Lea bill was supposed to benefit are saying that Senators made fools of themselves by passing the Lea bill.* * * I am simply trying to persuade Senators not again—at least so quickly—to make a jackass out of themselves as they did in passing the bill.

They were not so very sensitive in those days, and I suppose, in the vulgar parlance of the day, they "could take it."

Now we come to the 80th Congress. I refer to the very capable and distinguished former Senator from Texas. We had a visit with him yesterday. He is a fine, gracious, upright citizen, who did such yeoman service for his country over a long period of time. I am speaking of Tom Connally. This happened in the 80th Congress, 1st session, on July 26, 1947:

Even now I can see the junior Senator from Michigan—

He was referring to the present Senator from Michigan [Mr. FERGUSON]—

with his insinuations and with his political bile and with his political rancor and with his political prejudice undertaking to cross-examine, annoy, and harass the Attorney General. * * *

He [Mr. FERGUSON] may be junior in some respects, of course, but he is senior in vilification and abuse and insinuation.

Our distinguished colleague from Michigan remembers it so well. I continue to read:

I hope he always remains junior.

If a judge on the bench * * * in my State should in a law case show the venom and the spleen and the political hatred exhibited by the junior Senator from Michigan, he would be disqualified.

The idea of a little two-bit committee summoning or inviting the President * * * to come down and appear before a committee composed of gentlemen like the junior Senator from Michigan.

That was in the 80th Congress. Our colleague is still here. Note the abuse of a committee. I know of no worse thing to say about a committee than to say it is a "two-bit" committee.

Mr. President, there are many other instances I could select, but let me go now to the 81st Congress, and I refer to colloquy between the distinguished Senator from Indiana [Mr. JENNER] and the distinguished former Senator Tydings. The statement was made in the 81st Congress, 2d session, on July 21, 1950. Senator Tydings was speaking. My distinguished friend from Indiana will remember it well:

I found the junior Senator from Indiana [Mr. JENNER] is in company that I never associate with. I find that Joe Stalin and the Daily Worker and the Senator all vote the same way.

A point of order was made.

On July 21, 1950, the distinguished Senator from Indiana [Mr. JENNER] arose, and I read his remarks:

All trained seals have to stoop to pick up the ball when they drop it, and the attack of the Senator from Maryland, Mr. Tydings, on me is only an indication of how low he is willing to stoop to pick up the administration's ball, no matter how rotten the filth it has rolled through.

The Senator from Maryland has now presented a spectacle which has transformed the majority of the United States Senate into an instrument of mob rule * * *

So, Mr. President, we do not have to go back to ancient days to find robust language; it gets rather current, as we may see.

Then I come to the 82d Congress, and I shall refer to a colloquy involving the Senator from Michigan [Mr. FERGUSON]. Obviously, Mr. President, I try to be as impartial about this matter as I can. I refer now to a colloquy which occurred between the Senator from Michigan and the Senator from Oklahoma [Mr. KERR] on May 3, 1951. At that time the Senator from Michigan said:

The Senator from Oklahoma [Mr. KERR] knows that what he says is absolutely false * * * He accuses the Senator from Michigan of wanting to give aid and comfort to an enemy * * * I now consider the source from which that remark came, and I have no further reply to it.

I do not know, Mr. President, but that some day I may land in this list. I never know. [Laughter.] Who shall say? But the list must be complete, and the whole story must be told.

Then we come to remarks made by Senator Connally, of Texas, in the 2d session of the 82d Congress—on March 10, 1952—as follows:

Any statement by the Senator from Ohio [Mr. Taft] * * * to the effect that the Senator from Texas [Mr. Connally] was willing to invite or invited any Communists to go into Korea is absolutely untrue and absolutely false. * * *

Now we have the Senator from Ohio defiling his own seat in this body by making a statement that we invited Communists into Korea.

In his [Mr. Taft's] efforts as a candidate for the Presidency he is willing to subordinate his integrity and his truthfulness, in order to grasp a few slimy, filthy votes, which is what they are when they are purchased by untruths and misrepresentation.

Here is what he [Mr. Taft] said in * * * his speech on the floor of the Senate, not on the hustings, not cravenly going around and begging a few dirty, filthy votes.

That is what Senator Connally, of Texas, said in the speech he made on that date on the floor of the Senate, not in the hustings. I repeat that the speech was made in the Senate Chamber on March 10, 1952.

So, Mr. President, we see that the sin is on both sides. I wonder, then, how sensitive we can become.

Mr. President, how much time remains to me?

The PRESIDING OFFICER. The Senator from Illinois has approximately 3½ minutes remaining.

Mr. DIRKSEN. I wonder whether it will be possible to have as much as 2 additional minutes yielded to me.

Mr. JOHNSON of Texas. Mr. President, I yield 2 additional minutes to the acting majority leader.

Mr. FERGUSON. Then, Mr. President, I yield the 2 additional minutes to the Senator from Illinois.

Mr. DIRKSEN. I thank both Senators.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 2 more minutes, and thus he has a total of 5½ minutes remaining to him.

Mr. DIRKSEN. Mr. President, I do not have the exact page reference to some of the quotations I shall give, but they are fairly well documented.

On March 30, 1826, John Randolph, of Virginia, said:

I was defeated * * * and clean broke down * * * by a coalition of Black Bill and Black George, by the combination * * * of the puritan [John Quincy Adams] and the blackleg [Henry Clay].

I understand that on another occasion John Randolph, while serving in the Senate during the interval 1825–27, is reported to have called Henry Clay's progenitors into account for bringing into this world "this being, so brilliant yet so corrupt, which, like a rotten mackerel by moonlight, shined and stunk."

Mr. Randolph also is reported to have denounced Daniel Webster, of Massachusetts, as "a vile slanderer," and John Holmes, of Maine, as "a dangerous fool," and Edward Livingston, of Louisiana, as "the most contemptible and degraded of beings, whom no man ought to touch, unless with a pair of tongs."

Those were statements by some of the Members who graced this body—robust, and not too sensitive.

Mr. President, when we speak of the tradition of the Senate, we speak of the whole tradition, which, like some magnificent piece of pageantry, unfolds, and is studded with all the characters and all the utterances, salty and otherwise, which go to make up the tradition of the Senate.

Now I say to my colleagues, Bend your ear while I give another quotation. This one is from Senator Voorhees, of Indiana, when he was speaking in the Senate Chamber on June 18, 1879. At that time he was referring to Senator James G. Blaine. Senator Voorhees said, on that occasion:

If he [Senator James G. Blaine] adopts the part of the scavenger bird, hunts for offal, the castoff and putrefying matter of past years, I may deplore but I cannot prevent such a course. If he prefers to abandon the pursuits of the lion, and follow the habits of the hyena, to dig into the graves of the past for loathsome and offensive things, I deeply regret it. * * *

On May 1, 1888, Senator Ingalls, of Kansas, referred to Senator Voorhees and to other Senators, as follows:

Mr. President, the affected indignation of the Senator from Indiana [Mr. Daniel A. Voorhees], and others at my alleged assault upon these Union generals is discreditable either to their intelligence or their candor. If they did not know that in speaking of them * * *, I was speaking of them not as soldiers, but as politicians * * *, they are dull, stupid, and ignorant indeed. If they do know it and persist in their misrepresentation they are disingenuous, and I suspect, if such a thing were possible, they are both.

That statement also was made on the floor of the United States Senate.

On the same date, Senator Voorhees replied:

I say he [Ingalls] * * * is a great liar when he intimates such a thing—a great liar and a dirty dog.

Mr. President, I am a little distressed that time will not permit completion of these remarks. Thus far, I have just laid a foundation, by going back into the past, and by showing that in those days, Members of the Senate were not so sensitive; that they were pummeled from both outside and within, and somehow it did not fracture the dignity or the traditions of the Senate, and it did not obstruct the constitutional, parliamentary process.

Mr. President, I am afraid I have detained Senators far too long from their lunch. For that, I apologize. I shall resume my remarks later this afternoon. I am grateful to the Senate for its indulgence.

Mr. PURTELL. Mr. President——

Mr. FERGUSON. Mr. President, I yield 5 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 5 minutes.

Mr. PURTELL. Mr. President, I wonder whether the acting majority leader will, through the kindness of the minority leader, request that I be granted 20 minutes. I have a prepared speech to deliver.

Mr. JOHNSON of Texas. Mr. President, this is the first notice I have had of such a desire on the part of the Senator from Connecticut. I must confer with the majority leader. I shall be glad to consider the request of the Senator from Connecticut, as he proceeds with his remarks; and certainly we shall be as generous as possible.

Mr. PURTELL. That will be very kind. I hope the Senator from Texas now will yield to me 15 minutes.

Mr. JOHNSON of Texas. Mr. President, I have no time to yield. However, I shall confer about the matter.

The PRESIDING OFFICER. Let the Chair inquire whether it is planned to have the Senate take a recess for lunch, today.

Mr. JOHNSON of Texas. Mr. President, I cannot speak for the majority leader; but today he told me that he did not plan to have the Senate take such a recess period.

The PRESIDING OFFICER. Very well.

The Senator from Connecticut is recognized.

Mr. PURTELL. Mr. President, it has been my privilege—and a great privilege, for which I shall be everlastingly thankful to the people of my State—to sit in this great body for the past 2 years. To me these hallowed walls, the seats we occupy, the customs we follow, the traditions we observe in this greatest of all temples of freedom, are sacred—not sacrosanct, but sacred. Here have sat, deliberated, and legislated, the greatest of our great Americans. Here has been steadily built, molded, and shaped, the greatness that is ours today as a nation; and here, too, have been preserved by those who preceded us in this Chamber, the rights and the privileges which today we exercise.

Here, and in the legislative hall but a few short strides down that historic corridor were planted and nurtured the principles of our democracy. I, like many other Members of this body, today, have spent sleepless nights and tortured hours, tormented and perplexed as to what action to take in the matter now pending before the Senate. I found myself emotionally urged to take punitive action—quick and sure and certain—for what were, in my judgment, abuses of the tongue and of the pen, visited upon colleagues whom I hold in high esteem and great respect—yes, in deep affection. I found it easy to let passion sway judgment, to center my thoughts and my actions on things of the moment. I felt that the dignity of this great body needed defense, and I found it easy to be carried away on the sea of indignation. I felt it my obligation to take action to preserve the dignity of this great body, and I thought the one way to do it was by positive action on the matter pending before the Senate today.

The PRESIDING OFFICER (Mr. WELKER in the chair). The Senator will suspend, without the time being taken from either side.

There will be order in the Chamber and in the galleries, or the galleries will be cleared. Occupants of the galleries are here as guests of the United States Senate. They are requested not to distract the speaker.

The Senator from Connecticut may proceed.

Mr. PURTELL. But I pondered—and I ask Senators to ponder with me—on the word "preserve." Webster defines preserve as meaning "to keep alive, or in existence, to make lasting, to keep safe from harm or injury." I asked myself, "Does that mean to preserve something which I created, something which the 83d Congress brought into existence, a child of this sitting body?" No. It refers to something that was created and protected and handed down to me and my colleagues by those who preceded us. My mind went back to the early days of this body, and to all the days that followed, up to the present time.

Cool reason brought the realization that what I, as a Senator, as a Member of this body, enjoy, the freedoms which I am exercising today, and the privileges that are mine, were created and preserved by others long before my entrance into this august body. I felt meek and humble, and a litle bit ashamed, perhaps, to have for so long a time harbored the thought that what faces me now, and the decision we all must make, was something new. Calm deliberation brought to my mind that many of my predecessors over the long, long past, doubtless spent many sleepless nights and hours, facing problems created by situations similar in magnitude to that which faces us today. Causes just or unjust have from time to time whipped up popular emotion throughout our country and throughout our whole history.

Many times actions were advocated and advanced, actions which had momentary popular appeal; and Members of this Chamber then—because they were human and because at times they felt the blood rise, were sorely tried, as we in this body today are sorely tried. They were tempted, as we are tempted, to sail with the wind, but oh, what would have been our fate, and now, as the world depends upon us, what would have been the fate of the world if those who occupied these seats in the Senate then had shifted with every change of the wind, had responded to the passions of the day or the moment, had decided that our "ship of state" should be a ship consisting of all sails and no anchor. I asked myself then, and I ask my colleagues now, "Are we the only body, we sitting Senators, to whom the dignity of the Senate was precious? Did they who preceded us think less of the dignity of the Senate, and their own dignity, than we do? Are we the only Members of all of those who occupied this Chamber whose patience at times was tried, whose tempers were aroused because there were those among them who castigated, who criticized, and who denounced?" We talk now of preserving the dignity of this body. What dignity? The dignity that we inherited from those who preceded us, who preserved it and handed it on to us. And was that dignity tarnished? I think not. Dignity cannot be bestowed, it must be earned. Neither the junior Senator from Wisconsin nor any other Senator can lessen my dignity. Only I can do that.

The PRESIDING OFFICER. The time of the Senator from Connecticut has expired.

Mr. KNOWLAND. Mr. President, 5 minutes have been allotted to me by the distinguished minority leader. I yield that time to the Senator from Connecticut.

Mr. PURTELL. I thank the Senator from Texas and the Senator from California.

There was much else that we inherited in the basic freedoms which we, as ambassadors from our respective States, enjoy in this, the Senate of the United States.

Situations similar to that which faces us now are not new in the Senate, but the means proposed to meet them are new. Neither is the provocation which exists today, new. Like provocations existed from the very inception of the Senate and have continued to exist at times throughout the history of this body, and yet never has action like that proposed been taken. I can find neither rule nor precedent on which to base censure on the charges made, and therefore I will not vote for censure. Throughout our history, our basic principles, our guiding light, the keystone of our liberties—my liberties as a Senator and my liberties as a citizen—the one foundation which if it crumbles brings everything down with it, is the principle that this is a government of laws and not of men.

History records that there have been other republics whose destruction was rapid and complete when they departed from that guiding principle; and, to the extent we depart from that principle, freedom—whether it be in the Senate or in the street—becomes a mockery, and man becomes a slave of his fellow men.

There is another thing that has been preserved for us, and that is freedom of speech and freedom of action. As Senators, such action is restricted only to the extent that rules, few in number, and limited in scope, have been self-imposed. Ours is the power to make such rules, such laws, to govern our actions. If it is the will of this body, let us then make such rules. I find no such rule today.

We are here debating, deliberating, and shortly we shall be deciding, whether or not a man by the name of MCCARTHY, a duly elected Senator from the State of Wisconsin, shall be censured by his peers. Much has been said of the charges lodged against the junior Senator from Wisconsin. The CONGRESSIONAL RECORD is filled with the speeches of men more able than I in discussing the legal aspects of the matter, but I ask, "What rule has been violated?"

I should like at this time to pay tribute to the select committee which I, with others of this body in the closing days of the last session of the 83d Congress, asked to assume the disagreeable and unwanted duty of holding hearings and sifting the charges presented in Senate Resolution 301 and all amendments thereto. Let me say now that they are men of integrity and men of character, men who have my regard, my respect, and my affection.

Mr. JOHNSON of Texas. Mr. President, will the Senator yield?

Mr. PURTELL. I yield.

Mr. JOHNSON of Texas. I am obliged to leave the Chamber for a few moments. I wish to yield to the majority leader an additional 10 minutes, so that the distinguished Senator from Connecticut may have time in which to conclude his address.

The PRESIDING OFFICER. The Senator from Texas has yielded to the majority leader an additional 10 minutes, leaving the Senator from Connecticut 12 minutes in which to complete his address.

Mr. KNOWLAND. Or so much of the time as the Senator may need.

Mr. PURTELL. I shall hurry as fast as I can.

I resent the things said about my worthy colleagues who are members of the select committee, and I, too, resent what has been said about my esteemed and respected friend and colleague from New Jersey [Mr. HENDRICKSON]. I wish the conduct of the junior Senator from Wisconsin had been other than it was. But, in truth, I wish I, too, were different and better in many ways. Yes; the junior Senator from Wisconsin has used expressions deplorable by my standards, but I ask, "What Senate rule has he violated?" Cruel as were the words used by the junior Senator from Wisconsin in regard to my esteemed and distinguished friend, the Senator from New Jersey—and they were cruel—in my opinion they did less harm coming from a Senator with a reputation for exaggerated verbal expressions than would some cleverly worded but sharply barbed and equally cruel expressions used by more careful, and perhaps more erudite men. When my esteemed colleague from New Jersey was referred to as a man without brains or guts, the unfairness of the statement was obvious to everyone. Yes, harm was done, not harm to the man who was the recipient of that remark, but harm to the maker of the statement. But how about a Senator who may cleverly and skillfully convey the idea that he is above reproach, and by his carefully selected barbs and skillfully worded castigations of a fellow Senator not only leave an everlasting wound in the soul and heart of him toward whom it is directed, but can well undermine public confidence in him, and, to that extent, lessen his usefulness in this body.

I hold no brief for the junior Senator from Wisconsin. I deplore many of his expressions. I am not a lawyer, though I sit in the midst of lawyers. My knowledge of law is elementary. I am grateful that one of the requirements for senatorship is not membership at the bar. But if I am not mistaken, one of the first principles of jurisprudence, and one of the very fundamentals, is embodied in the well-known phrase "Better 10 guilty men go free, than 1 innocent man be condemned." Let us have rules plainly stated and easily understood.

It is proposed that we censure here a Senator from the State of Wisconsin; that we take action here on a matter for which there is no existing rule. We are asked to set a different precedent in this Senate, this body of 96 men, each the equal of the other, chosen by the sovereign States who sent them here as representatives of the people of their State.

Oh, the dignity of the Senate is precious to me, but I have no reason to believe, no right to assume, that its preciousness is, or was, limited to me, or to the other 95 seated Senators in this body.

Dignity in the Senate certainly was no less precious to those who preceded us in this Chamber, and yet for 165 years the men who occupied these places were at times castigated and criticized, denounced, and condemned by colleagues on and off the floor, without once by any recorded action, indicating that for which the Senator from Wisconsin today stands charged, was of a nature that lowered the dignity of the Senate.

Oh, make no mistake about it. The dignity of the Senate was precious to them, but so was freedom of speech, and so was the principle of government of laws, and not of men; of rules and not of emotions.

This respect for, trust in, and devotion to this body is not new with the 83d Congress. I deplore much of the language of the junior Senator from Wisconsin. Were I able, I would change in some respects the junior Senator from Wisconsin. But there is something I would not change, if I could, and that is the fact that for 165 years my predecessors in this beloved Chamber refused to restrain, or restrict, or circumscribe the freedom of expression, or the freedom of speech, except as set out by rules, and they are few.

If they were able to endure the temporary stings and invectives—and they so endured—and if they were willing to do it so that I might today in this Chamber enjoy the freedom which I now enjoy as a representative of my people in this body—then I ask, what right have I, after 165 years of such precedent set by men whose greatness is recorded in the pages of history—what right have I to determine and what right have I to decide that not only for today, but forever, I shall place restrictions upon Senators in this body except by rules clearly stated?

We have a precedent in the Senate in the matter before us, a precedent 165 years in the making, a precedent, as I pointed out before, of preserving, in the face of many provocations, the freedom of speech that was handed down to me by those who preceded me here.

I shall not vote for censure of Senator MCCARTHY, or any other Senator on like charges, in the absence of an adopted rule. My decision was not an easy one to make. My ire has been aroused by the junior Senator from Wisconsin on more than one occasion. But such action as we take affects not only the junior Senator from Wisconsin, but all Senators now and forever.

I know that critical comment will result from the position I am taking today. Far better that than the remorse that would forever be with me in the knowledge that in leaving this Chamber I was leaving behind less freedom for my successor than I had found when I entered.

I have a duty, as I see it, to this body; a duty to my constituents; a duty to myself; a duty to those who have preceded me over the past 165 years; and a duty to those who will follow me. I believe I am performing that duty in voting against censure. There can be little satisfaction for anyone in this action in which we are engaged.

Such solace as may be derived lies in the knowledge that I am doing what I can and what I believe to be my duty, to preserve those rights and those privileges which I inherited, and which I strive to pass on to all future Senators, unhampered and unrestricted, except as by such rules as are adopted by this body.

Mr. KNOWLAND. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. BEALL in the chair). Three minutes.

Mr. KNOWLAND. I yield 3 minutes to the senior Senator from Kansas.

Mr. SCHOEPPEL. Mr. President, within a few minutes the Senate of the United States will vote on a most important subject. I have listened with much interest to the debate, and I have tried to be conscientious in meeting my responsibility in connection with the subject.

As I heard presented to the Senate during this session and during the last few hours the arguments on the pending resolution, there came flitting before me from the pages of tradition and from the actions of the Senate of yesterdays statements and decisions taken which lead me to reflect that these matters which relate to the junior Senator from Wisconsin today too shall pass.

Shall we legislate or maneuver, in a sense, to shackle the Senate of the United States and prevent it from being the great body I envision it to be and which our forebears thought it should be, or that I want it to be in the future? Those are questions which seriously engross my thinking today.

I am fearful of the precedents we are establishing in an atmosphere of high emotions, instead of calm deliberation and reasoning, as to the future of the Senate. I do not want to depart from time-honored procedures of the Senate that have been so effective in the past. I do not want to sacrifice principle even for a passing rebuke for the junior Senator from Wisconsin. There are other ways to meet the present situation, but this is not the way.

I shall not vote to censure the junior Senator from Wisconsin, not because I agree with all his acts and utterances, which I do not. I have due respect for the select committee. It has performed very well the arduous responsibilities which were cast upon it. The members of the committee did a creditable job in the time allotted to them; but its findings go far beyond what I think should be done if we are to consider the future of this body and the effectiveness of the Senate in the years to come. Therefore I cannot bring myself in good conscience to sustain that committee's determination in this matter.

I shall not shackle and I shall not render impotent by my vote what I believe the Senate should hold inviolate, namely, the right of free speech of its membership, the right to investigate, the right to search boldly and thoroughly into matters that affect the people of this Nation.

In closing, I should like to say that I had prepared some formal remarks on this subject. However, since then I have read a statement which appeared in the Washington Star of Monday, November 29. In an article entitled "A Lawyer Looks at Censure," David Lawrence so clearly embodies what I wish to say and so ably states my position that I ask

that the article be printed in the RECORD at this point, as a part of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A LAWYER LOOKS AT CENSURE—NOTED ATTORNEY, WITH APPARENT DISLIKE FOR MCCARTHY, SEES SENATE HEADING FOR DANGEROUS PRECEDENTS

(By David Lawrence)

Emotion—which means feeling instead of thinking—seems to have become dominant on both sides, not only outside but inside the Senate, in dealing with the dispute over the censure of Senator MCCARTHY.

This correspondent has just obtained a copy of a letter written by one of the ablest lawyers in the country, who had been asked by a perplexed friend—a prominent American businessman recently returned from a long trip abroad—to give him privately a detached opinion on the merits of the case. Indicating clearly the difficulty of rendering an objective judgment on one of the biggest controversies of the day, the attorney's reply is a worthwhile exposition of the cross-currents of the affair. It reads as follows:

"My answer depends upon whether I approach the question purely emotionally or critically as a lawyer. In my opinion, the tragic difficulty with the whole McCarthy problem is that it is being judged and debated purely emotionally and opinionatedly and, consequently, the basic issues are completely ignored. MCCARTHY has made himself personally the issue. His opponents have joined issue on MCCARTHY, the individual. Both have lost sight of the principles involved and hence the mess. Once you forsake principles for persons you find yourself involved in an emotional chaos.

"Personally, I hold no brief for MCCARTHY as a person. I think he has been built up as a Frankenstein by his adversaries. They have given him a public significance that he personally does not warrant and never could have acquired by his own efforts.

"As a lawyer, I am fearful that the present proceedings will result in fundamental innovations in Senate procedure by establishing new precedents, departing from time-honored procedures, which will affect adversely the dignity and effectiveness of the Senate. I don't believe MCCARTHY, as an individual, is worth this sacrifice of principle and precedent.

"Let me explain: Examining the Watkins report—and that report is the only issue now before the Senate—MCCARTHY as a person and as a Senator has not been put in issue by the Watkins report, and could not be, as that is a question solely for the electorate of the sovereign State of Wisconsin.

"First: If MCCARTHY refused to accept the 'invitation' of a Senate committee to appear 'if he chose,' as the Watkins report concedes, that cannot be contempt. Contempt is a technical offense—the refusal to comply with the valid orders or subpena of a committee or the refusal to answer legally competent questions. There is nothing mandatory about an invitation, and a refusal to accept an invitation cannot be a contempt.

"Many, many Senators have and are constantly not 'accepting such invitations.' If that is contempt, why not try all offenders for the same offense? Do we want to set the precedent that any Senator must testify before a committee if invited to do so? If so, why not change the Senate rules? Even if now changed, you could not condemn MCCARTHY ex post facto, as that certainly is not the rule or practice of the Senate up to now.

"Furthermore, the subject matter about which MCCARTHY was invited to testify was in his own income-tax returns and his use of his political contributions. Both have been investigated by the Bureau of Internal Revenue and the Department of Justice under Democratic and Republican administrations with the finding that no evidence of legal violations were found. MCCARTHY made full disclosure to both agencies. Furthermore, failure to properly report and pay income taxes is a crime over which the Department of Justice has exclusive jurisdiction.

"Second: MCCARTHY has used language unbecoming, in my opinion, of what a United States Senator should use, but is he alone in this impropriety? I can cite too many examples of even more unrestrained language being used by many Senators. If such language be made a punishable offense, then all offending Senators should be similarly cited for censure. They have not been. Why? Because up to now such undesired language has not been an offense against any law or rule. Even in the present debate on the Watkins report, censurable language is being used by several Senators seemingly without any disapproval.

"Big business has been insulted and smeared, in more violent language than MCCARTHY has used, by many congressional committees and on the floors of both Houses, and no one has uttered a word of protest. We have apparently become very sensitive to the sensitivities of some groups only. Why not equal protection to all?

"Even Senator CASE has now reversed himself on this question in the light of Secretary Stevens' recent letter.

"Third: The remaining charge that Senator MCCARTHY has encouraged Government employees to violate their department and superior orders in revealing restricted information is controversial, but it would be interesting to have the courts settle the question if an employee can be ordered to refuse to reveal his knowledge of a crime. Does his immunity of acting under superior's orders exonerate him from giving evidence of a crime? Suppose the information in his possession, no matter how acquired, is evidence of treason or of giving aid and assistance to the enemy, can the possessor of such evidence refuse to disclose it? If so, our criminal laws will have to be amended.

"And how about our position at the Nuremberg trials? Did we not take the position that acting under superior orders was no excuse for committing or condoning an immoral act—an act against the conscience of mankind?

"The fact that all these principles of our law and traditional procedures will be rejected just to censure—slap the wrist—of a personally disliked person is a careless rejection of practice and an ex post facto judgment—to be applied against one person, not against all similar offenders. This would be a government of men, no matter what men or why, not laws.

"Remember, the Watkins report charges no crime against MCCARTHY. If a crime has been committed, it is the duty of the Senate to report the same to the Department of Justice, not just spank the offender. Furthermore, censure is a futile and innocuous remedy because it accomplishes nothing. Senator MCCARTHY will continue just the same—probably even denouncing the Senate more violently.

"Being a lawyer, I must view this whole procedure in this manner. I do not want to join a lynching party against a person in whom I have no interest. I am more interested in the prestige of the Senate than I am in the man, or any man."

The PRESIDING OFFICER. The time of the Senator from Kansas has expired. All time of the Senator from California has expired.

Mr. JOHNSON of Texas. Mr. President, I yield 6 minutes to the Senator from Louisiana.

Mr. LONG. Mr. President, so much do I dislike the idea of censuring one's colleagues that I cannot conceive of myself ever bringing before the Senate a censure resolution. Nevertheless this unpleasant task has been brought before us, and I have been compelled to reach an unhappy decision. I have been especially troubled because of the possible dangers of the precedent which would be established by voting censure, which is and should always be a most extraordinary action by the Senate. Censure of a colleague in the Senate is a grave matter, and it should not be invoked without clear and unequivocal justification.

It is not enough, in my opinion, to disapprove generally of the personal conduct of a Senator or the manner in which he carries out his duties as a Senator. Specific misconduct is essential as a basis for censure.

I disagree with the statement in the select committee's report to the effect that a Senator does not have the right to impugn the motives of a fellow Senator or a senatorial committee. I believe that all of us have that right, and I would certainly regret to see it otherwise.

Suppose that a committee might in fact be proceeding from wrongful motives and seeking to destroy a Member of the Senate who was engaged in an undertaking essential to our security. It is unquestionably in the national interest that there be freedom to bring forward such charges—and, of course, to be given a chance to prove them. However, any Senator who chooses to exercise that right must clearly do so at his peril, because either an individual Senator or a committee can bring the case before the Senate in the event of such an attack.

The conduct of the junior Senator from Wisconsin toward and his abusive language concerning the Gillette-Hennings committee certainly constituted a challenge which, in my opinion, should have been taken up by that committee. Had it been brought before the Senate at the time it was occurring, I feel certain that I would have voted to sustain the committee and to condemn the attack by the Senator. I am not prepared to censure him now, solely for an action which went unchallenged at the time.

Unfortunately, this is not the only instance in which the junior Senator from Wisconsin has challenged duly constituted committees of the Senate. In most violent form we have witnessed his attitude and attack on the chairman, and indeed all the members, of a select committee of the Senate appointed with the greatest care. The members of this committee are without exception considered by the entire membership of the Senate, except by the Senator from Wisconsin, to be men whose honor and integrity are without question. All of us know also that not one member of this committee served by his own wish or nomination. They served as a matter of duty, and an attack on them cannot be treated in any way except as an attack on the Senate as a whole.

Each of us must now decide whether or not we find that the Senator's abusive conduct toward the select committee, and the other committees and individ-

uals which are involved here, has been justified by the evidence which he has produced before the select committee and on the floor of the Senate. I do not believe that he has produced the evidence to support these charges.

He has said that this committee as a whole was serving the cause of communism, but he has produced no evidence supporting this charge, and I emphatically state that I do not believe that any member of this committee knowingly or unknowingly is serving the cause of communism. He has labeled the chairman of this committee as a coward on grounds which I cannot remotely accept. I believe that Senator WATKINS has discharged a disagreeable and onerous responsibility in a manner which has won for him new esteem among us all, and I cannot by my vote do otherwise than express my confidence in him and appreciation for his conscientious effort to serve the Senate in a most unpleasant post.

Therefore, Mr. President, I shall vote in favor of censure. In view of all the circumstances I do not see how I could do otherwise. I wish to make it a matter of record, however, that in doing so I do not consider that I am establishing a precedent which can be used in the future to enforce uniformity in our conduct as individual Senators and representatives of our respective States.

Except for repeated assaults by the junior Senator from Wisconsin on individual Senators and duly constituted committees, which have not been mitigated by any generous expression on his part and which have not been supported by evidence to prove his charges of wrongful motives and harmful actions, I should never have decided to vote for censure in this case. Instead, I should like to again make it clear that I support him fully in his right to impugn the motives of any and all of us; but the fact cannot be escaped that his imputations, as those of any other Senator, must be subjected to scrutiny if they are challenged and brought before the Senate.

In the present case he is clearly found wanting when called upon to support his allegations. This is the test which should be applied in all such cases; and I believe that by the judicious application of this test we can avoid in future instances the very harmful results which have been pointed out most clearly by the junior Senator from Wisconsin [Mr. MCCARTHY], the Senator from Idaho [Mr. WELKER], and others in the debate which is now being concluded. The right to challenge must be undisputed and, equally so, the burden of proof must rest with the challenger when his challenge is accepted.

Mr. JOHNSON of Texas. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the order for the quorum call may be rescinded.

The PRESIDING OFFICER (Mr. COTTON in the chair). Without objection, it is so ordered.

Mr. JOHNSON of Texas. Mr. President, I yield 15 minutes to the distinguished majority leader.

Mr. KNOWLAND. Mr. President, I yield myself 10 minutes.

I said at the session of the Senate last August that the select committee which was appointed commanded my confidence. I have not changed my viewpoint of the integrity, the ability, the loyalty, or the courage of that committee in the slightest degree since that time.

These men I know well. I have served with some of them for a considerable period of time. I have known others in their capacity as public servants or as private citizens. I stated on the floor of the Senate in August, and I repeated my statement during this session, that I would be willing to be tried for my life before this select committee as a group, or before any of them individually. I did not draw the center line when I said that, because my statement applied to the Senator from Mississippi [Mr. STENNIS], the Senator from North Carolina [Mr. ERVIN], and to the Senator from Colorado [Mr. JOHNSON], as well as it applied to the Senator from Utah [Mr. WATKINS], the Senator from Kansas [Mr. CARLSON], and the Senator from South Dakota [Mr. CASE]. Any abuse or unfair statements which have been made in relation to this committee or to any of its members I consider to be abuse and unfair statements against the majority leader, and I might add, perhaps, against the minority leader and the Senate of the United States itself.

The investigation was not an easy task for the committee to undertake. I have said privately to some of my colleagues in the Senate that I did not believe I ever had a more difficult or distasteful job than I had on my side of the aisle in asking three Members of this body to undertake what all of us knew would be a difficult task to perform. I express on my own behalf and on behalf of the Senate my deep sense of appreciation that the members of the select committee have been willing to undertake this very difficult work.

I have known and served with the distinguished junior Senator from New Jersey [Mr. HENDRICKSON] for a considerable period of time. I have served with him during the entire 6 years he has been a Member of the Senate. I am sorry he will not be back with us at the next session, because I admire his intelligence and his courage as a man, as a soldier of his country, and as a Senator. I would have no hesitation about giving my unqualified approval of him for any position for which he might be suggested, because I know he has the ability, courage, and intelligence to undertake and fulfill with great distinction any position which he might be called upon to fill.

When any of my colleagues are treated unfairly, I feel very badly. I do not think it helps the person who makes references to them in an unfair way.

But having said that, Mr. President, I also must say that I have had to search my conscience very deeply before coming to a final conclusion in regard to the matter pending before the Senate. I have finally, and only last night, after some prayerful consideration, arrived at what, at least to me, is a decision in the matter. I shall not vote for the censure resolution.

Mr. President, we are dealing with a body which has existed since the birth of this Republic. I hope we are dealing with a body which will exist long after all of us have gone. As was stated by the Senator from Connecticut [Mr. PURTELL] today, I hope that we shall not hand down to those who succeed us a body which will have any less power than had the body as we found it when we came to the Senate.

Mr. President, it is a very difficult decision that Members on both sides of the aisle must make. Certainly we must, and we shall, in my judgment, continue the power of the Senate to conduct investigations into the executive branch of the Government, or into any field involving legislative responsibility. We have a constitutional obligation to do that, and we must resist with all the power at our command, and it is a substantial power, an effort to curtail in the slightest degree that power of investigation.

But, Mr. President, we must be very certain in this body to make sure that if at any time in the future a Senator speaks up, he will not be cut down. Sometimes it is very difficult to draw the line. I have told the junior Senator from Wisconsin, and I am sorry he stepped from the Chamber momentarily, because I have told him privately, and I would not say publicly what I had not said privately, that I do not approve of the language which the junior Senator from Wisconsin used concerning my good friend, and he is my good friend, the Senator from New Jersey [Mr. HENDRICKSON], or remarks of the junior Senator from Wisconsin regarding the select committee. I stated that any charges made against the committee to the effect that it was the "unwitting handmaiden" of anything in fact implied that the majority leader was also the unwitting handmaiden, and I personally resented it.

However, under the circumstances, and considering the long history of the Senate, I do not believe the Senate should now, in an ex post facto sort of way, adopt a resolution of censure, which has not been done in the entire history of the Senate under the circumstances presently before the Senate.

Mr. President, are we to have no statute of limitations at all? I believe the Senate has to give some consideration to that question. During the address of the junior Senator from Nevada [Mr. BROWN], on yesterday, during the time he yielded for questions, I briefly referred to the fact that we might go back to the 1941 Langer case, to be specific. At that time the question arose with regard to the seating of a Member of this body. The question arose as to whether a Senator might be expelled. Certain charges were made. The Senate, in its judgment, determined that it would not expel a Senator, and would not deny him his seat. However, the charges might still remain.

The period from 1941 to 1954 is 13 years. Are we to establish a precedent

that the Senate might go back and draw up charges, after such a long period of time has elapsed, and consider a censure resolution? In some distant day, such a proposal might be politically inspired.

Those who are familiar with history know that during the period of the French Revolution, a member of the French Assembly could rise on one side of the aisle and denounce a colleague on the other side of the aisle, and if standing at his back was a majority, the man who was denounced went to the guillotine. That is an extreme case, to be sure, but we are dealing with this question now for all history, and not alone for the 83d Congress, or merely for the junior Senator from Wisconsin, or for any individual Senator, important as he may be.

I think there is a very real basis for believing that if a censurable act is committed, the action should be taken by the Congress in which that act took place, because otherwise there would be no statute of limitations. I think it is particularly true that when a Senator has committed an alleged act during the term of office for which he has been elected, and he submits his candidacy to the people of his State, and the people of his own State reelect him, and he comes to the bar of the Senate and presents his credentials, and takes his oath of office, the Senate is derelict in its duty if at that particular time it does not raise a question as to his right to be seated. If he is seated, and the point is not made, then I think the statute of limitations runs. If we do not follow some rule of reason in that regard, a transitory, highly political group which might come to power some day in the distant future, after all of us have passed from the scene, might determine, for political purposes, to use the power of the majority to censure a member of the minority, and that member might be a member of the Democratic minority, the Republican minority, the conservative minority, or the liberal minority, because governments of countries have changed over the years. The only protection we have is to go by the landmarks of the Constitution and the precedents of the Senate, which have kept the Senate the greatest, freest deliberative body the world has ever seen.

Mr. President, after a careful search of my conscience, and considering the responsibility which weighs heavily upon me because of the seat I occupy, I have come to this conclusion. I wish it to be understood that if the Senate should vote against the censure resolution, it would be in no sense an approval of the use of the words used by the junior Senator from Wisconsin, for I would not approve of such words. I would not want it so interpreted, and I have told the junior Senator from Wisconsin that he has not in the least been courteous to some of his colleagues in this Chamber.

However, under the conditions I have cited, in fairness to this body, to myself, and to those by whom I have been asked to serve, I feel that I should not vote for censure.

Mr. JOHNSON of Texas. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. JOHNSON of Texas. At the outset of the debate it was my intention not to address the Senate on the subject now before the Senate.

I had thought that the question could best be handled through a calm discussion by the participants—the members of our select committee and the declared opponents of the resolution. The senior Senator from Texas believed it would be best to listen to the arguments advanced by the opposing sides, and then express his position by his vote alone.

After all, Mr. President, on an issue of this kind no person's word can be as eloquent as his vote.

Since the debate began, however, there have been developments which have changed my decision as to the course I should pursue. The most important is the attack made upon the select committee chosen by the majority and minority leaders, and I regard it as an attack upon the Senate itself.

The change in my course does not mean I have changed my mind as to how I should vote. A number of days ago I came to the conclusion that sufficient facts were available to permit a reasonably intelligent man to make a reasonably conscientious decision.

On the basis of the evidence, it is my intention to vote for the censure resolution. That is a personal decision on my part. I am not seeking to influence, and I have not sought to influence, the decision of any other Senator.

Mr. President, it is not my purpose to go into a lengthy explanation of the reasons for the vote I shall cast. The report of the select committee and the addresses made by its distinguished members are ample, in the judgment of the senior Senator from Texas. They need no elaboration insofar as I am concerned.

Mr. President, I am rising to speak for one reason only—to make it unmistakably clear, today and tomorrow, and in the years to come, where I stand with respect to the unwarranted attack upon the members of the select committee.

Mr. President, I had a hand in the selection of the members of that great committee. They were not my selection alone, because I sought advice and counsel. I doubt whether there was any Member on this side of the aisle who, during that period of selection, was not approached by me, seeking advice, counsel, and recommendations.

In a very real sense this was truly a committee which represented the whole Senate. In making the selection, Mr. President, we sought men of prudence, men with judicial temperaments, men of unquestionable patriotism, men who could and would succeed in putting their country ahead of any political or partisan consideration.

Mr. President, it is my belief that we succeeded beyond the fondest expectations of the most optimistic.

Mr. President, I wish to have it noted here that I am not confining my personal tribute to the Democratic members of the select committee alone. I think particular praise is due to the very able and the very courageous senior Senator from Utah [Mr. WATKINS], a man who will forever deserve the gratitude of the American people for his courageous and his statesmanlike conduct. Although I do not always agree with the political views of the senior Senator from Utah, he will always have my respect and my admiration as a courageous, gallant gentleman, a public servant in the highest sense of the word.

Neither he nor any other member of the select committee sought the post. They accepted it, knowing it to be a very disagreeable task. They accepted it solely because it had to be done—because duty was calling; and these six men are the kind of men who always answer the call of duty. From an examination of the record, it is obvious that they approached this unpleasant duty in a judicial frame of mind. They leaned over backwards to give the junior Senator from Wisconsin the benefit of any doubt. They exercised what I consider great restraint and prudence.

Mr. President, it concerned me to find inserted in the CONGRESSIONAL RECORD a statement describing these agents of the Senate—these men who, pursuant to an order of the Senate, were selected upon recommendation of the majority and the minority leaders, as "unwitting handmaidens of communism." I imagine it even came as something of a shock to the most vigorous opponents of the censure resolution.

The use of the word "unwitting" does not change the situation, for, Mr. President, if these are "unwitting" men, then our country is lost, because I do not think any Member will dispute the statement that these six men represent as good as we have in the United States Senate.

Mr. President, I do not intend to have my comments construed as a "defense" of the select committee. It needs no defense. Its members are eminently qualified, as they have so amply demonstrated, to take care of themselves. I am speaking, Mr. President, because I am proud to associate myself with statesmen of their high caliber. I am speaking out of a deep, personal belief that I, as an individual, must reject these imputations against the honor of great Americans with a long, proven record of service to their country.

The words which were used in attacking these men do not belong in the pages of the CONGRESSONAL RECORD or of the Senate Journal. Such words would be much more fittingly inscribed on the wall of a men's room. But, Mr. President, the issue before us is not just the use of harsh language. Men like "Big" ED JOHNSON, the governor-to-be of Colorado, Judge JOHN STENNIS, Judge SAM ERVIN, and the other members of the select committee, can handle any personal abuse which may come in their direction.

The real issue, as I see it, Mr. President, is whether the Senate of the United States, the greatest deliberative body in the history of the world, will permit abuse of a duly appointed committee seeking to carry out the will of the Senate.

The issue before us is just that simple.

If we sanction such abuse—whether of this committee, that committee, or an-

other committee—we might just as well turn over our jobs to a small group of men and go back home to plow the south 40 acres.

For myself, I can conceive of no compromise on this question. Like any reasonable man, I am willing to consider language which will improve the resolution, any language which will express better the sense of this body. But on the basic issue of censure or noncensure of the conduct of the junior Senator from Wisconsin, I, as a man devoted to the traditions of this body, feel that there is no choice.

If there were truly an issue involving communism, my attitude would be different. But I can search the record with a fine-tooth comb and, on that question, I can find nothing even remotely connected with the battle against subversion.

Mr. President, many people are strongly in favor of the junior Senator from Wisconsin. Many are strongly opposed to him. I doubt whether any action we take here today or tomorrow will meet with the approval of either group. But the overwhelming majority of the American people, most of them silent as we speak, are concerned with the practices, the policies, and the conduct of the United States Senate.

Our integrity can best be preserved by a straight-out vote. As for myself—and I am speaking for no other Senator—I have made my decision.

Mr. STENNIS. Mr. President, will the Senator from Texas yield to me 7 minutes?

Mr. JOHNSON of Texas. I yield 7 minutes to the distinguished Senator from Mississippi.

Mr. STENNIS. Mr. President, I had not intended to say anything further with reference to the committee's recommendation No. 1, but I wish to answer the remarks made by our esteemed majority leader [Mr. KNOWLAND], in which, in effect, he approved the statement of facts in the report, the conclusion in the report, and the law in the report, condemned the acts alleged to have been committed by the junior Senator from Wisconsin, and then entered a plea of the statute of limitations.

I feel compelled, in my feeble way, to make some remarks on that point. I wish especially to emphasize my very high regard for the very fine leadership and patriotism of the Senator from California. I was personally incensed and highly resentful this morning because of a news broadcast containing the suggestion that perhaps the position of the Senator from California on this question would be influenced by the fact that the junior Senator from Wisconsin had announced, in effect, that he would support the Senator from California in his stand on certain questions of foreign policy. I resented that suggestion, as a Member of the Senate and as a colleague of the Senator from California. What I am about to say in reference to his argument is said in the very highest terms of compliment to him as a Senator. However, I think his logic is utterly fallacious.

As I say, he did not contradict the committee report. He did not contradict the statement of facts in the report. He did not challenge any of the conclusions in the report. He did not say that there was anything wrong with the statement of the law connected with the case, as contained in the report.

Moreover, he said that he disapproved of the conduct of the junior Senator from Wisconsin, that he did not wish to be associated with it, that he thought it had no place in the Senate. Nevertheless, he said that he intended to vote against censure because of the statute of limitations. I presume he confined his remarks to count No. 1 with reference to the statute of limitations, because the other acts referred to were committed since the 83d Congress began.

The report filed by the Gillette subcommittee came to the Senate about 5 or 6 p. m., on January 2, 1953, about 18 short hours before that Congress, as such, expired by terms of law. As a practical matter, what opportunity was there for that Congress to have passed upon the facts set out in that report, even though some of those facts may have been generally known before that time. The report did not take crystallized form until 18 hours before the end of the session.

The remarks with respect to the Senator from New Jersey [Mr. HENDRICKSON], which constituted a part of the attack on the committee, were not made until after the report was filed. Now it is said that because those 18 hours elapsed and nothing was done, the conduct of which the Senator from California disapproved is to be passed by on a plea of the statute of limitations. Can we accept that argument?

Mr. KNOWLAND. Mr. President, will the Senator yield?

Mr. STENNIS. I have only a limited time.

Mr. KNOWLAND. If the Senator would yield for half a minute, I would take it out of my time if I had any time.

Mr. JOHNSON of Texas. I am glad to yield time to the Senator.

Mr. STENNIS. I am glad to yield if I have the time.

Mr. KNOWLAND. My point was—and I thought I expressed it clearly—that I thought the Senate during the period of time when the alleged action took place should be the Senate to act upon the matter. The fact is that it was not the fault of the so-called defendant, if I may use that term. I am not a lawyer, as is the able Senator from Mississippi, so my terms may be incorrect. However, it was not the fault of the defendant that the committee waited until less than 24 hours before the beginning of the new Congress. The committee was derelict in not submitting the report earlier.

Mr. STENNIS. That is my next point.

What were the acts of the junior Senator from Wisconsin bearing upon the ability of the committee to act as an arm of the Senate? Did he cooperate with the committee? Did he give the committee the advantage of any information he possessed? Did he make any move whatsoever except moves of obstruction, moves of defiance, moves of delay? He did not. For that reason, Mr. President, the committee did not have a reasonable opportunity to file anything like a complete report until the dying days of that Congress.

The correct rule as to the statute of limitation is that if a person is beyond the reach of the processes of the court, or beyond the reach of the law, the statute of limitations is tolled. If I ever saw a case in which the conduct of the party in question delayed, halted, and tolled the operations of any statute of limitations, it is this case. The whole idea of a statute of limitations, which bars action after a certain time, is to avoid placing any person at a disadvantage in making his proof.

There is no scintilla of a suggestion here from any source that the junior Senator from Wisconsin was hampered or hindered in any way in making his defense before the Gillette subcommittee, before the so-called select committee, or before the Senate, on the ground of the time element.

We hear a great deal about precedents. If we establish the firm precedent that every subject must be taken up and disposed of during the current session of Congress in which it happens, the Senate will lose control over vital matters of this kind.

I respectfully submit that in a case of conduct of a Senator involving the honor and integrity of a Senator or his colleagues, or in connection with the operation of the Senate in its legal functions, there should be no statute of limitations. I submit that it comes with poor grace, in the dying moments of the consideration of this case, to make the argument in a serious way that, regardless of what the facts may be, the power of the Senate to act has been tolled by the expiration of time. If that is the rule in a case like this, God help the United States Senate.

Mr. WATKINS. Mr. President, will the Senator yield for a question?

Mr. STENNIS. I am very glad to yield.

The PRESIDING OFFICER. The time of the Senator from Mississippi has expired.

Mr. JOHNSON of Texas. Mr. President, I yield 3 additional minutes to the Senator from Mississippi.

Mr. STENNIS. I now yield to the Senator from Utah.

Mr. WATKINS. I invite the attention of the Senator to the fact that at the beginning of the 83d Congress, as Members of the Senate were being sworn in, the late lamented Senator Robert Taft, of Ohio, called attention to the fact—and I think it was generally agreed to—that when Senators were sworn in they were sworn in without prejudice, and that contests or other proceedings affecting them could be instituted later. Does the Senator remember that?

Mr. STENNIS. I think the Senator is correct, although I am not absolutely certain as to the exact language used. I may add this thought to what the Senator from Utah has said: When the junior Senator from Wisconsin took the oath of office here, following his reelection, whatever could have been said in his behalf with respect to the statute of limitations was waived by him, and he is now estopped to plead the statute of

limitations regarding acts of this kind. They are never out of date when they constitute a crime of this kind against the Senate by one of its Members. They can be brought up and passed upon by the Senate at any time.

Mr. WATKINS. I thank the Senator.

Mr. JOHNSON of Texas. Mr. President, I yield 15 minutes to the distinguished majority leader.

Mr. KNOWLAND. Mr. President, I yield 15 minutes to the senior Senator from Oregon.

Mr. CORDON. Mr. President, the Senator from Oregon will not take 15 minutes, or 10 minutes, or even 5 minutes. I appreciate the opportunity to occupy the few minutes that I shall take.

Mr. President, this is the last vote I shall cast as a Member of this body. This is my final participation in debate. I shall be brief.

I doubt that my contribution will be of any material effect in the pending matter. I hope, coupled with submitted material, that it may serve a useful purpose in the years to come.

The position I take would have been more difficult were it not for the admission of error made on the floor of the Senate.

In all frankness, I recognize that the admission could have been more specific, phrased in words of greater certainty. But the admission was made, and it was made after the statements critical of the select committee.

However we try, we cannot limit, we cannot control, the effect of what we do here on actions to be had in future years. This record will be examined for weal or woe long after all here today are gone.

We are more sinners than saints in this body, Mr. President. Our individual frailties and derelictions may vary, but they exist. And they ill fit us, I submit, to don judicial robes and adopt today standards upon which to censure yesterday's actions.

Individual liberty, freedom of speech—the freedom to speak words which we hate, if you please—grow daily less in this harried, confused, and chaotic world. In this matter I shall act to further the cause of liberty, not to restrict it. I shall be generous rather than chance being unjust. I shall vote against censure.

Mr. President, during the pendency of this matter a series of pertinent discussions have appeared in the pages of the U. S. News & World Report. They show conclusive evidence of careful and comprehensive research and consideration. Because I believe they will be invaluable in future years when this question shall again arise—and it will arise again—I ask unanimous consent to have printed in the RECORD, as a part of my remarks, the following articles and editorials:

First. An article entitled "Committee Findings on McCARTHY," beginning on page 60 of U. S. News & World Report for October 8, 1954, and an article entitled "We've Been Asked: The Meaning of Censure" appearing on page 54 of that issue;

Second. An editorial by David Lawrence entitled "Forget It's McCARTHY—Remember the Constitution" appearing on page 144 of the same issue;

Third. An editorial by David Lawrence entitled "Censure for the Senate," appearing on page 128 of U. S. News & World Report for October 22, 1954; and

Fourth. An editorial by David Lawrence entitled "Shall the Senate Destroy Itself?" appearing on page 138 of U. S. News & World Report for October 29, 1954.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the U. S. News & World Report of October 8, 1954]

COMMITTEE FINDINGS ON McCARTHY

(Here, in complete official text, is the report of the Senate committee that recommended censure of Senator JOSEPH R. McCARTHY. The special committee, headed by Senator ARTHUR V. WATKINS, Republican, of Utah, held that Senator McCARTHY should be censured on 2 of 5 categories of charges. Given here, also, is the full text of the bill of exceptions to the Watkins committee report, as submitted to the committee by Edward Bennett Williams, counsel for Senator McCARTHY. This document outlines the position that Senator McCARTHY will take when the full Senate debates his case in a special session which has been scheduled to begin on November 8.)

Following, in full text, is the report of the Select Committee To Study Censure Charges, as released on September 27, 1954:

The Select Committee To Study Censure Charges, consisting of ARTHUR V. WATKINS (chairman), EDWIN C. JOHNSON (vice chairman), JOHN C. STENNIS, FRANK CARLSON, FRANCIS CASE, SAM J. ERVIN, JR., to which was referred the resolution (S. Res. 301) and amendments, having considered the same, reports thereon and recommends that the resolution be adopted with certain amendments.

Introduction

On August 2 (legislative day, July 2), 1954, Senate Resolution 301, to censure the Senator from Wisconsin, Mr. McCARTHY, submitted by Senator FLANDERS on July 30, and amendments proposed thereto, was referred to a select committee to be composed of 3 Republicans and 3 Democrats and named by the Vice President. By said order the select committee was authorized—

(1) To hold hearings;

(2) To sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate;

(3) To require by subpena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, and to take such testimony as is deemed advisable.

The select committee was instructed to act and to make a report to the Senate prior to the adjournment sine die of the Senate in the 2d session of the 83d Congress.

The order of the Senate is set forth in the hearing record, page 1 et seq.

The Vice President, on August 5, 1954, acting on the recommendations of the majority leader and the minority leader, made the following appointments of members of the select committee: From the majority, the Senator from Utah [Mr. WATKINS], the Senator from Kansas [Mr. CARLSON], and the Senator from South Dakota [Mr. CASE]. From the minority, the Senator from Colorado [Mr. JOHNSON], the Senator from Mississippi [Mr. STENNIS], and the Senator from North Carolina [Mr. ERVIN]. The select committee chose the Senator from Utah [Mr. WATKINS] as chairman, and the Senator from Colorado [Mr. JOHNSON] as vice chairman.

The select committee, on August 24, 1954, served upon the junior Senator from Wisconsin, and other interested persons, a notice of hearings, setting forth 5 categories containing 13 specifications of charges from certain of the proposed amendments, establishing the general procedural rules for the hearings before the select committee, and formally requesting the appearance of Senator McCARTHY. The notice of hearings will be found in the hearing record, page 8.

All testimony and evidence taken and received by the select committee was at public hearings attended by Senator McCARTHY and his counsel. No testimony or evidence was taken or received in executive session, except the testimony of the Parliamentarian, which was taken with the knowledge and consent of the attorney for Senator McCARTHY. The public hearings were held in accordance with said notice of hearings, on August 31, September 1, 2, 7, 8, 9, 10, 11, and 13, 1954. The entire testimony, evidence, and proceedings at said public hearings is in the printed record of the hearings and made part of this report by reference.

At the commencement of the hearings on August 31, 1954 (p. 11 of the hearings), the chairman stated:

Statement of purposes of committee made at commencement of hearing

"Now, at the outset of this hearing, the committee desires to state in general terms what is involved in Senate Resolution 301 and the Senate order on it, which authorized the appointment of the select committee to consider in behalf of the Senate the so-called Flanders resolution of censure, together with all amendments proposed in the resolution.

"The committee, in the words of the Senate order was 'authorized to hold hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate, to require by subpena, or otherwise, the attendance of such witnesses and the production of such correspondence, books, papers, and documents, and to take such testimony as it deems advisable, and that the committee be instructed to act and make a report to this body prior to the adjournment sine die of the Senate in the 2d session of the 83d Congress.'

"That is a broad grant of power, carrying with it a heavy responsibility—a responsibility which the committee takes seriously. In beginning its duties, the committee found few precedents to serve as a guide. It is true that there had been other censure resolutions before the Senate in the past, but the acts complained of were, for the most part, single occurrences which happened in the presence of the Senate or one of its committees. Under such circumstances, prolonged investigations and hearings were not necessary.

"It should be pointed out that some forty-and-odd alleged instances of misconduct on the part of Senator McCARTHY referred to this committee are involved and complex, both with respect to matters of fact and law. With reference to the time element, the incidents are alleged to have happened within a period covering several years. In addition, three Senate committees already have held hearings on one or more phases of the alleged incidents of misconduct. Obviously, with all this in mind, the committee had good reason for concluding it faced an unprecedented situation which would require adoption of procedures, all within the authority granted it in the Senate order, that would enable it to perform the duties assigned within the limited time given by the Senate.

"The committee interprets its duties, functions, and responsibilities under the Senate order to be as follows:

"1. To analyze the charges set forth in the amendments and to determine—

"(a) If there were duplications which could be eliminated.

"(b) If any of the charges were of such a nature that even if the allegations were established as factually true, yet there would be strong reasons for believing that they did not constitute a ground for censure.

"2. To thoroughly investigate all charges not eliminated under No. 1 in order to secure relevant and material facts concerning them and the names of witnesses or records which can establish the facts at the hearings to be held.

"In this connection the committee believes it should function as an impartial investigating agency to develop by direct contacts in the field and by direct examination of Senate records all relevant and material facts possible to secure.

"When Senate Resolution 301 and amendments offered were referred to the committee, the committee interprets this action to mean that from that time on the resolution and charges became the sole responsibility of the Senate. To state it another way, the Senator, or Senators, who offered Resolution 301, and proposed amendments thereto, have no legal responsibility from that point on for the conduct of the investigations and hearings authorized by the order of the Senate. The hearings are not to be adversary in character. Under this interpretation, it became the committee's duty then to get all the facts and material relevant to the charges irrespective of whether the facts sustained the charges or showed them to be without foundation.

"The foregoing statement seems to be necessary in view of a widespread misunderstanding that the Senator who introduced the resolution of censure into the Senate and the Senators who offered amendments thereto, setting up specific charges against the Senator from Wisconsin, are the complaining witnesses, or the parties plaintiff, in this proceeding. That is not true, as has been explained. However, because of the fact that they had made some study of the situation, the committee did give them an opportunity to submit informational documentation of the charges they had offered. Also they were asked to submit the names of any witnesses who might have firsthand knowledge of the matters charged and who could give relevant and material testimony in the hearings.

"Since matters of law also will be involved in reaching evaluation of the facts developed, pertinent rules of the Senate and sections of law, together with precedents and decisions by competent tribunals, should be briefed and made a part of the hearing record, the committee believes.

"3. To hold hearings where the committee can present witnesses and documentary evidence for the purpose of placing on record, for later use by the Senate, the evidence and other information gathered during the preliminary investigation period, and for the development of additional evidence and information as the hearings proceed.

"The resolution of censure presents to the Senate an issue with respect to the conduct and possible punishment of one of its Members. The debate in the Senate preceding the vote to refer the matter to a select committee made it abundantly clear that the proceedings necessary to a proper disposal of the resolution and the amendments proposed, both in the Senate and in the select committee, would be judicial or quasi-judicial in nature, and for that reason should be conducted in a judicial manner and atmosphere, so far as compatible with the investigative functions of the committee in its preliminary and continuing search for evidence and information bearing on all phases of the issues presented.

"Inherent in the situation created by the resolution of censure and the charges made, is the right of the Senator against whom the charges were made to be present at the hearings held by the select committee. He should also be permitted to be represented by counsel and should have the right of cross-examination. This is somewhat contrary to the practice by Senate committees in the past, in hearings of this nature, but the present committee believes that the accused Senator should have these rights. He or his counsel, but not both, shall be permitted to make objections to the introduction of testimony, but the argument on the objections may be had or withheld at the discretion of the chairman. The Senator under charges should be permitted to present witnesses and documentary evidence in his behalf, but, of course, this should be done in compliance with the policy laid down by the committee in its notice of hearing, which is a part of this record.

"In general, the committee wishes it understood that the regulations adopted are for the purpose of insuring a judicial hearing and a judicial atmosphere as befits the importance of the issues raised. For that reason and in accordance with the order the committee believes to be the sentiment of the Senate, all activities which are not permitted in the Senate itself will not be permitted in this hearing.

"4. When the hearings have closed, to prepare a report and submit it to the Senate. Under the order creating this committee, this must be done before the present Senate adjourns sine die.

"By way of comment, let me say that the inquiry we are engaged in is of a special character which differentiates it from the usual legislative inquiry. It involves the internal affairs of the Senate itself in the exercise of a high constitutional function. It is by nature a judicial or semi-judicial function, and we shall attempt to conduct it as such. The procedures outlined are not necessarily appropriate to congressional investigations and should not, therefore, be construed as in any sense intended as a model appropriate to such inquiries. We hope what we are doing will be found to conform to sound senatorial principles and traditions in the special field in which the committee is operating.

"It has been said before, but it will do no harm to repeat, that the members of this committee did not seek this appointment. The qualifications laid down by the Senate order creating the commission, said the committee should be made up of 3 Democrat Senators and 3 Republican Senators. This was the only condition named in the order. However, in a larger sense the proper authorities of the Senate were charged with the responsibility of attempting to choose Members of the Senate for this committee who could and would conduct a fair and impartial investigation and hearing. Members of the committee deemed their selection by the Senate authorities as a trust.

"We realize we are human. We know, and the American people know, that there has been a controversy raging over the country through a number of years in connection with the activities of the Senator against whom the resolution is directed. Members of this committee have been conscious of that controversy; they have seen, heard, and read of the activities, charges, and countercharges, and being human, they may have at times expressed their impressions with respect to events that were happening while they were happening.

"However, each of the Senators who make up this special select committee are mature men with a wide background of experience which should enable them to disregard any impressions or preconceived notions they may have had in the past respecting the controversies which have been going on in public for many years.

"We approach this matter as a duty imposed upon us and which we feel that we should do our very best to discharge in a proper manner. We realize the United States Senate, in a sense, is on trial, and we hope our conduct will be such as to maintain the American sense of fair play and the high traditions and dignity of the United States Senate under the authority given it by the Constitution."

As the investigations and the hearings progressed, the committee found that the period of time allotted to perform the task assigned would not be sufficient if all the charges were given thorough investigation and hearings were held thereon. The committee also was aware of the practical situation that required that its task be completed sufficiently early to permit the Senate to consider its report before that body must adjourn sine die.

Procedure for committee hearings established in notice of hearings

"All testimony and evidence received in the hearings shall be such as is found by the select committee to be competent, relevant, and material to the subject matters so under inquiry, with the right of examination and cross-examination in general conformity to judicial proceedings and in accordance with said order of the Senate.

"The select committee will admit, subject to said order, as competent testimony for the record, so far as material and relevant, the official proceedings and pertinent actions of the Senate and of any of its committees or subcommittees, taking judicial notice thereof, and using official reprints when convenient. Following Senate tradition, witnesses may be examined by any member of the committee, and they may be examined or cross-examined for the committee by its counsel. Witnesses may be examined or cross-examined either by Senator McCarthy or his counsel, but not by both as to the same witness."

Senator McCarthy was permitted to and made an opening statement in his own behalf at the commencement of the first hearing, on condition that it be relevant and material, and not to be received as testimony (hearing record, p. 14).

By unanimous vote of the members of the select committee taken after the issuance of the notice of hearings, it was decided to proceed with hearings only upon the 13 specifications set forth in the 5 categories contained in the notice of hearings, to which reference is hereby made (hearing record, p. 8).

I. CATEGORY 1: INCIDENTS OF CONTEMPT OF THE SENATE OR A SENATORIAL COMMITTEE

A. General discussion and summary of evidence

The evidence on the question whether Senator McCarthy was guilty of contempt of the Senate or a senatorial committee involves his conduct with relation to the Subcommittee on Privileges and Elections of the Senate Committee on Rules and Administration. An analysis of the three amendments referring to this general matter (being amendment (3) proposed by Senator Fulbright, amendment (a) proposed by Senator Morse, and amendment (7) proposed by Senator Flanders) reveals these specific charges:

"(1) That Senator McCarthy refused repeated invitations to testify before the subcommittee.

"(2) That he declined to comply with a request by letter dated November 21, 1952, from the chairman of the subcommittee to appear to supply information concerning certain specific matters involving his activities as a Member of the Senate.

"(3) That he denounced the subcommittee and contemptuously refused to comply with its request.

"(4) That he has continued to show his contempt for the Senate by failing to explain in any manner the six charges contained in the Hennings-Hayden-Hendrickson report, which was filed in January 1953."

We have decided to consider and discuss in our report under this category the incident with reference to Senator Hendrick-

SON, since the conduct complained of is related directly to the fact that Senator HENDRICKSON was a member of the Subcommittee on Privileges and Elections. This incident is referred to in the amendment proposed by Senator FLANDERS (30), the specific charge being:

"(5) That he ridiculed and defamed Senator HENDRICKSON in vulgar and base language, calling him 'a living miracle without brains or guts.'"

The report referred to as the Hennings-Hayden-Hendrickson report is the report of the Subcommittee on Privileges and Elections to the Committee on Rules and Administration, pursuant to Senate Resolution 187, 82d Congress, 1st session, and Senate Resolution 304, 82d Congress, 2d session, filed January 2, 1953, made part of this report and printed in the appendix. The select committee admitted in evidence the Hennings-Hayden-Hendrickson report for the limited purposes of showing the nature of the charges before that subcommittee, as bearing upon the question of jurisdiction of that subcommittee, and what was the subject matter of the investigation (pp. 55, 121, and 524 of the hearings).

As stated by the chairman (p. 17 of the hearings), the select committee did not construe this category as involving in any way the truth or falsity of any of the charges against Senator MCCARTHY considered by that subcommittee. These charges, as shown by its report and as stated briefly by the chairman, Senator HENNINGS, in a letter to Senator MCCARTHY under date of November 21, 1952 (Hennings-Hayden-Hendrickson report, p. 98), were:

"Pursuant to your request, as transmitted to us through Mr. Kiermas, we are advising you that the subcommittee desires to make inquiry with respect to the following matters:

"(1) Whether any funds collected or received by you and by others on your behalf to conduct certain of your activities, including those relating to communism, were ever diverted and used for other purposes inuring to your personal advantage.

"(2) Whether you, at any time, used your official position as a United States Senator and as a member of the Banking and Currency Committee, the Joint Housing Committee, and the Senate Investigations Committee to obtain a $10,000 fee from the Lustron Corp., which company was then almost entirely subsidized by agencies under the jurisdiction of the very committees of which you were a member.

"(3) Whether your activities on behalf of certain special interest groups, such as housing, sugar, and China, were motivated by self-interest.

"(4) Whether your activities with respect to your senatorial campaigns, particularly with respect to the reporting of your financing and your activities relating to the financial transactions with, and subsequent employment of, Ray Kiermas involved violations of the Federal and State Corrupt Practices Act.

"(5) Whether loan or other transactions which you had with the Appleton State Bank, of Appleton, Wis., involved violations of tax and banking laws.

"(6) Whether you used close associates and members of your family to secrete receipts, income, commodity, and stock speculation, and other financial transactions for ulterior motives."

The evidence taken by the select committee under this category consisted of letters and documents, oral testimony by Senator MCCARTHY and oral testimony by Senator HAYDEN, and by the Parliamentarian. As to the statement regarding Senator HENDRICKSON, there is the testimony of a reporter. There is no material contradiction in any of the testimony relating to this category. The sending and receipt of the correspondence is admitted. There is no contradiction of the verbal testimony of Senator MCCARTHY with reference to his conversations with Chairman GILLETTE, or of that of Chairman HAYDEN with reference to the constitution of the Subcommittee on Privileges and Elections and the filing of its report, or of that of Parliamentarian Watkins, discussed fully hereinafter.

The evidence shows that the Subcommittee on Privileges and Elections was proceeding to investigate and report on Senate Resolution 187; that Senator MCCARTHY was invited to appear to testify before the subcommittee on five separate occasions extending from September 25, 1951, to November 7, 1952, and formally requested to appear by letter and telegram of November 21, 1952; that Senator MCCARTHY could not appear at the times specified in the request because of his absence in Wisconsin; that Senator MCCARTHY did not appear before the subcommittee in answer to the matters under investigation regarding his own conduct, but did appear on one occasion in support of his Senate Resolution 304 directed against Senator Benton; that Senator MCCARTHY accused the subcommittee of acting without power and beyond its jurisdiction, of wasting vast amounts of public money for improper partisan purposes, of proceeding dishonestly, of aiding the cause of communism, and that these accusations were directed toward an official subcommittee of the Senate. The uncontradicted testimony further shows that Senator MCCARTHY directed and gave to the press an abusive and insulting statement concerning Senator HENDRICKSON, calculated to wound a colleague, solely because Senator HENDRICKSON was a member of the subcommittee and performing services required by the Senate.

Senate Resolution 187, introduced by Senator Benton, was not voted upon by the Senate, but when the jurisdiction of the Subcomittee on Privileges and Elections and the integrity of its members was attacked, the Senate by its vote of 60 to 0 in Senate Resolution 300, affirmed and ratified both.

Counsel for Senator MCCARTHY advanced the contention that these specifications relating to "Incidents of contempt of the Senate or a senatorial committee" were legally insufficient on their face as a predicate for the censure of Senator MCCARTHY because (1) there has never been a case of censure upon a Member of Congress for conduct antedating the inception of the Congress which is hearing the censure charges (p. 18 of the hearings), and (2) because the subcommittee acted unlawfully and beyond its jurisdiction (pp. 53 to 58 of the hearings).

B. Findings of fact

From the evidence and testimony taken with reference to the first category, the select committee finds the following facts:

1. On August 6, 1951, Senate Resolution 187, 82d Congress, 1st session, was introduced by Senator Benton and referred to the Committee on Rules and Administration (p. 20 of the hearings).

2. In turn, this resolution was referred by the Committee on Rules and Administration to its Subcommittee on Privileges and Elections (p. 280 of the hearings).

3. This resolution provided, inter alia, that whereas "any sitting Senator, regardless of whether he is a candidate in the election himself, should be subject to expulsion by action of the Senate, if it finds such Senator engaged in practices and behavior that make him, in the opinion of the Senate, unfit to hold the position of United States Senator,": Therefore be it

"*Resolved*, That the Committee on Rules and Administration of the Senate is authorized and directed to proceed with such consideration of the report of its Subcommittee on Privileges and Elections with respect to the 1950 Maryland senatorial general election, which was made pursuant to Senate Resolution 250, 81st Congress, April 13, 1950, and to make such further investigation with respect to the participation of Senator JOSEPH R. MCCARTHY in the 1950 senatorial campaign of Senator JOHN MARSHALL BUTLER, and such investigation with respect to his other acts since his election to the Senate, as may be appropriate to enable such committee to determine whether or not it should initiate action with a view toward the expulsion from the United States Senate of the said Senator JOSEPH R. MCCARTHY."

It will be noted that this proposed resolution authorized and directed such investigation as may be appropriate "with reference to his other acts since his election to the Senate."

4. Senator MCCARTHY was elected to the Senate in the fall of 1946, and took his seat in January 1947.

5. Among the charges pending before and investigated by that Subcommittee on Privileges and Elections, charges (1), (2), (3), and (4) related to matters since Senator MCCARTHY's election to the Senate in 1946, and charges (5) and (6) may or may not have referred to matters since his election to the Senate, or to matters both before and after his election.

6. Senator GUY M. GILLETTE was chairman of that Subcommittee on Privileges and Elections until his resignation on September 26, 1952 (p. 22 of the hearings).

7. By letter of Senator MCCARTHY to Chairman GILLETTE, dated September 17, 1951, Senator MCCARTHY stated that he intended to appear to question witnesses and that the subcommittee, without authorization from the Senate, was undertaking to conduct hearings in the matter (p. 280 of the hearings).

8. By letter of September 25, 1951, Chairman GILLETTE notified Senator MCCARTHY that the Benton resolution (S. Res. 187) would be taken up by the subcommittee on September 28, 1951, and that Senator MCCARTHY could be present to hear Senator Benton in executive session and make his own statement also, if time permitted (p. 23 of the hearings).

9. Senator MCCARTHY did not reply to this letter.

10. By letter of October 1, 1951, Chairman GILLETTE advised Senator MCCARTHY that Senator Benton had appeared and presented a statement in support of his resolution looking to action pertaining to the expulsion of Senator MCCARTHY from the Senate, that the subcommittee had taken action to accord to Senator MCCARTHY the opportunity to appear and make any statement he wished to make concerning the matter, and that the subcommittee "will be glad to hear you at an hour mutually convenient," before the 10th of October, if Senator MCCARTHY desired to appear (p. 23 of the hearings).

11. Under the date of October 4, 1951, Senator MCCARTHY wrote to Chairman GILLETTE, in reply to the latter's letter of October 1, 1951, that "I have not and do not even intend to read, much less answer, Benton's smear attack" (p. 23 of the hearings).

12. By letter of December 6, 1951, Senator MCCARTHY advised Chairman GILLETTE (p. 24 of the hearings)—

(a) That the Elections Subcommittee, unless given further power by the Senate, is restricted to matters having to do with elections.

(b) That "a horde of investigators hired by your committee at a cost of tens of thousands of dollars of taxpayers' money, has been engaged exclusively in trying to dig up on MCCARTHY material covering periods of time long before he was even old enough to be a candidate for the Senate—material which can have no conceivable connection with his election or any other election."

(c) That the "obvious purpose is to dig up campaign material for the Democrat Party for use in the coming campaign against MCCARTHY."

(d) That "when your Elections Subcommittee, without Senate authorization, spends tens of thousands of taxpayers' dollars for the sole purpose of digging up campaign material against McCARTHY, then the committee is guilty of stealing just as clearly as though the Members engaged in picking the pockets of the taxpayers and turning the loot over to the Democrat National Committee."

(e) That "if one of the administration lackies were chairman of this committee, I would not waste the time or energy to write and point out the committee's complete dishonesty."

(f) That instead of obtaining the necessary power from the Senate, "your committee decided to spend tens of thousands of dollars of taxpayers' money to aid Benton in his smear attack upon McCARTHY."

(g) That "I cannot understand your being willing to label GUY GILLETTE as a man who will head a committee which is stealing from the pockets of the American taxpayer tens of thousands of dollars and then using this money to protect the Democrat Party from the political effect of the exposure of Communists in Government."

(h) That "to take it upon yourself to hire a horde of investigators and spend tens of thousands of dollars without any authorization from the Senate is labeling your Elections Subcommittee even more dishonest than was the Tydings committee."

13. Chairman GILLETTE replied to Senator McCARTHY by letter of December 6, 1951 (p. 26 of the hearings), stating that the subcommittee did not seek its unpleasant task, but that since Senate Resolution 187 was referred by the Senate to the Committee on Rules and Administration, and by it to its Subcommittee on Privileges and Elections, its duty was clear and would be discharged "in a spirit of utmost fairness to all concerned and to the Senate."

14. In the same letter, Chairman GILLETTE informed Senator McCARTHY, "your information as to the use of a large staff and the expenditure of a large sum of money in investigations relative to the resolution is, of course, erroneous."

15. By letter from Senator McCARTHY to Chairman GILLETTE dated December 7, 1951, information was requested of the number and salaries of employees of the subcommittee (p. 26 of the hearings).

16. Chairman GILLETTE gave this information to Senator McCARTHY under date of December 11, 1951 (p. 27 of the hearings).

17. Under date of December 19, 1951, Senator McCARTHY wrote to Chairman GILLETTE stating that: "the full committee appointed you chairman of an Elections Subcommittee, but gave you no power whatsoever to hire investigators and spend vast amounts of money to make investigations having nothing to do with elections. Again, may have an answer to my questions as to why you feel you are entitled to spend the taxpayers' money to do the work of the Democratic National Committee" (p. 27 of the hearings).

18. In the same letter, Senator McCARTHY stated. "You and every member of your subcommittee who is responsible for spending vast amounts of money to hire investigators, pay their traveling expenses, etc., on matters not concerned with elections, is just as dishonest as though he or she picked the pockets of the taxpayers and turned the loot over to the Democratic National Committee."

19. In the same letter, Senator McCARTHY stated: "I wonder if I might have a frank, honest answer to all the questions covered in my letter of December 7. Certainly as a member of the Rules Committee and as a Member of the Senate, I am entitled to this information. Your failure to give this information highlights the fact that your subcommittee is not concerned with dishonestly spending the taxpayers' money and using your subcommittee as an arm of the Democratic National Committee" (p. 28 of the hearings).

20. On December 21, 1951, Chairman GILLETTE wrote Senator McCARTHY, advising him as follows:

(a) "I shall be very glad to give you such information as I have or go with you, if you so desire, to the rooms occupied by the subcommittee and aid you in securing any facts that are there available, relative to the employees of the subcommittee or their work," and stating further that—

(b) Previous correspondence had been printed in the public press, even before receipt by Chairman GILLETTE.

(c) That it was improper to discuss matters pertaining to pending litigation in the public press.

(d) That a meeting of the subcommittee was being called for January 7, 1952, to consider the Benton resolution.

(e) That if Senator McCARTHY cared to appear before the subcommittee, he would be glad to make the necessary arrangements as to time and place.

(f) That he would be glad to confer with Senator McCARTHY personally as to matters concerning the staff and the work of the subcommittee.

(g) That neither the Democratic National Committee nor any person or group other than an agency of the United States Senate has had or will have any influence on his duties and actions as a member of the subcommittee, and that no other member of the subcommittee has been or will be so influenced (p. 28 of the hearings).

21. Senator McCARTHY wrote to Chairman GILLETTE on January 4, 1952, asking: "The simple question of whether or not you have ordered the investigators to restrict their investigation to matters having to do with elections, or whether their investigations extend into fields having nothing whatsoever to do with either my election or the election of any other Senator" (p. 29 of the hearings).

22. Chairman GILLETTE replied to Senator McCARTHY by letter dated January 10, 1952, informing him that the staff of the subcommittee had just submitted a report on the legal question raised by Senator McCARTHY, that this was being studied, and the subcommittee would then determine what action, if any, they would take (p. 29 of the hearings).

23. Because Senator McCARTHY questioned the jurisdiction of the subcommittee, the subcommittee adopted a resolution, approved by a majority of the Committee on Rules and Administration, that Senator McCARTHY be requested to bring to the floor of the Senate a motion to discharge the Subcommittee on Privileges and Elections (p. 30 of the hearings).

24. Senator HAYDEN, chairman of the Committee on Rules and Administration, informed Senator McCARTHY that the purpose would be to test the jurisdiction and integrity of the members of the subcommittee (p. 30 of the hearings).

25. Under date of March 21, 1952, Senator McCARTHY wrote to Senator HAYDEN, chairman of the parent Committee on Rules and Administration, that he thought it improper to discharge the subcommittee for the following reasons:

"The Elections Subcommittee unquestionably has the power and, when complaint is made, the duty to investigate any improper conduct on the part of McCARTHY or any other Senator in a senatorial election.

"The subcommitee has spent tens of thousands of dollars and nearly a year making the most painstaking investigation of my part in the Maryland election, as well as my campaigns in Wisconsin. The subcommittee's task is not finished until it reports to the Senate the result of that investigation, namely, whether they found such misconduct on the part of McCARTHY in either his own campaigns or in the Tydings campaign to warrant his expulsion from the Senate.

"I note the subcommittee's request that the integrity of the subcommittee be passed upon. As you know, the sole question of the integrity of the subcommittee concerned its right to spend vast sums of money investigating the life of McCARTHY from birth to date without any authority to do so from the Senate. However, the vote on that question cannot affect the McCARTHY investigation, in that the committee for a year has been looking into every possible phase of McCARTHY's life, including an investigation of those who contributed to my unsuccessful 1944 campaign.

"As you know, I wrote Senator GILLETTE, chairman of the subcommittee, that I considered this a completely dishonest handling of taxpayers' money. I felt that the Elections Subcommittee had no authority to go into matters other than elections unless the Senate instructed it to do so. However, it is obvious that insofar as McCARTHY is concerned this is now a moot question, because the staff has already painstakingly and diligently investigated every nook and cranny of my life from birth to date. Every possible lead on McCARTHY was investigated. Nothing that could be investigated was left uninvestigated. The staff's scurrilous report, which consisted of cleverly twisted and distorted facts, was then "leaked" to the left-wing elements of the press and blazoned across the Nation in an attempt to further smear McCARTHY.

"A vote of confidence in the subcommittee would be a vote on whether or not it had the right, without authority from the Senate, but merely on the request of one Senator (in this case Senator Benton) to make a thorough and complete investigation of the entire life of another Senator. A vote to uphold the subcommittee would mean that the Senate accepts and approves this precedent and makes it binding on the Elections Subcommittee in the future.

"A vote against the subcommittee could not undo what the subcommittee has done in regard to McCARTHY. It would not force the subcommittee members to repay into the Treasury the funds spent on this investigation of McCARTHY. A vote against the subcommittee would merely mean that the Senate disapproves what has already been done insofar as McCARTHY is concerned, and, therefore, disapproves an investigation of other Senators like the one which was made of McCARTHY. While I felt the subcommittee exceeded its authority, now that it has established a precedent in McCARTHY's case, the same rule should apply to every other Senator. If the subcommittee brought up this question before the investigation had been made, I would have voted to discharge it. Now that the deed is done, however, the same rule should apply to the other 95 Senators.

"For that reason, I would be forced to vigorously oppose a motion to discharge the Elections Subcommittee at this time.

"I hope the Senate agrees with me that it would be highly improper to discharge the Gillette-Monroney subcommittee at this time, thereby, in effect, setting a different rule for the subcommittee to follow in case an investigation is asked of any of the other 95 Senators" (p. 30 of the hearings).

26. In view of Senator McCARTHY's refusal to make the requested motion in the Senate, Chairman HAYDEN, of himself and for the other four members of the Subcommittee on Privileges and Elections (Senators GILLETTE, MONRONEY, HENNINGS, and HENDRICKSON), submitted Senate Resolution 300, 82d Congress, 2d session, on April 8, 1952 (p. 31 of the hearings).

27. Senate Resolution 300 provided that whereas Senator McCARTHY in a series of communications addressed to Chairman GILLETTE between December 6, 1951, and January 4, 1952, had charged that the subcommittee lacked jurisdiction to investigate such

acts of Senator McCarthy as were not connected with election campaigns, and attacked the honesty of the members of the subcommittee, charging that in their investigation of such other acts the members were improperly motivated and were guilty of stealing just as clearly as though the members engaged in picking the pockets of the taxpayers; and whereas the subcommittee adopted a motion, as the most expeditious parliamentary method of obtaining an affirmation by the Senate of its jurisdiction of this matter and a vote on the honesty of its Members, that Senator McCarthy be requested to raise the question of jurisdiction and of the integrity of the members of the Subcommittee on Privileges and Elections by making a formal motion on the floor of the Senate to discharge the committee, and that unless Senator McCarthy did so the chairman of the Committee on Rules and Administration or the chairman of the subcommittee would present such a motion, and since Senator McCarthy in effect had declined so to do, therefore, to determine the proper jurisdiction of the Committee on Rules and Administration and to express the confidence of the Senate in its committee in their consideration of Senate Resolution 187, be it resolved that the Committee on Rules and Administration be, and it hereby is, discharged from the further consideration of Senate Resolution 187 (p. 31 of the hearings).

28. The Senate voted upon this resolution on April 10, 1952, and the resolution was rejected by a vote of 0 to 60, with 36 Members not voting (p. 32 of the hearings).

29. Senator McCarthy is recorded as not voting, but he stated in the Senate that he could not wait for the vote and if present would have voted against the discharge of the subcommittee (p. 378 of the hearings).

30. Chairman Gillette wrote to Senator McCarthy on May 7, 1952, fixing May 12, 1952, as the time for public hearing on Senate Resolution 187, informing him that the first charge to be heard would be the matter concerning the Lustron Corp. booklet, and extending to Senator McCarthy "the opportunity to appear at the hearings for the purpose of presenting testimony relating to this charge. The hearings in this case will probably continue for several days, and we shall make whatever arrangements for your appearance as are most convenient for you" (p. 32 of the hearings).

31. Under date of May 8, 1952, Senator McCarthy wrote to Chairman Gillette, acknowledging receipt of the letter of May 7, 1952, asking on what point the subcommittee desired information, and giving a statement of facts with reference to the Lustron Corp. booklet, in argumentative fashion, and charging the subcommittee with knowingly allowing itself to serve the Communist cause, and stating:

"The Communists will have scored a great victory if they can convince every other Senator or Congressman that if he attempts to expose undercover Communists, he will be subjected to the same type of intense smear, even to the extent of using a Senate committee for the purpose. They will have frightened away from this fight a vast number of legislators who fear the political effect of being inundated by the Communist Party line sewage.

"If you have evidence of wrongdoing on McCarthy's part, which would justify removal from the Senate or a vote of censure by the Senate, certainly you have the obligation to produce it. However, as you well know, every member of your committee and staff privately admits that no such evidence is in existence. It is an evil and dishonest thing for the subcommittee to allow itself to be used for an evil purpose. Certainly the fact that the Democrat Party may temporarily benefit thereby is insufficient justification. Remember the Communist Party will benefit infinitely more" (p. 32 of the hearings).

32. Senator McCarthy again wrote to Chairman Gillette on the same day, May 8, 1952, demanding expeditious action in the Benton case (p. 35 of the hearings).

33. Chairman Gillette wrote to Senator McCarthy under date of May 10, 1952, informing him that the subcommittee had concluded to take testimony on May 12, 1952, and that it was the courteous thing to do to invite him to attend, to present evidence in refutation or explanation, and that the opportunity would continue to be that of Senator McCarthy to present such matter as he might wish in connection with the hearing and to attend if he so desired (p. 43 of the hearings).

34. On May 11, 1952, Senator McCarthy wrote to Chairman Gillette, Senator Monroney, and Senator Hennings jointly, a sarcastic letter, the meaning and intention of which can be understood only by reading it in its entirety (p. 43 of the hearings).

35. The chief counsel for the subcommittee wrote to Senator McCarthy on November 7, 1952, inviting Senator McCarthy to appear before a subcommittee in executive session, in connection with Senate Resolution 187, during the week of November 17, 1952, and asking to be advised of the date of Senator McCarthy's appearance (p. 44 of the hearings).

36. The administrative assistant to Senator McCarthy replied for Senator McCarthy by letter of November 10, 1952, stating that Senator McCarthy was away and that he did not know when he would return to Washington, stating, however, that if the subcommittee would let him know what information was desired, he would be glad to try to be of help (p. 45 of the hearings).

37. Chairman Hennings of the subcommittee, then wrote a letter to Senator McCarthy under date of November 21, 1952, which because of its importance is set forth in full:

"Dear Senator McCarthy: As you will recall on September 25, 1951, May 7, 1952, and May 10, 1952, this subcommittee invited you to appear before it to give testimony relating to the investigation pursuant to Senate Resolution 187.

"Under date of November 7, 1952, the following communication was addressed to you:

" 'Dear Senator McCarthy: In connection with the consideration by the Subcommittee on Privileges and Elections of Senate Resolution No. 187, introduced by Senator Benton on August 6, 1951, as well as the ensuing investigation, I have been instructed by the subcommittee to invite you to appear before said subcommittee in executive session. Insofar as possible, we would like to respect your wishes as to the date on which you will appear. However, the subcommittee plans to be available for this purpose during the week beginning November 17, 1952.

" 'It will be appreciated if you will advise me at as early a date as possible of the day you will appear, in order that the subcommittee may arrange its plans accordingly.

" 'Very truly yours,

" 'Paul J. Cotter, *Chief Counsel.*'

"On November 14, 1952, the subcommittee received the following communication, dated November 10, 1952:

" 'Dear Mr. Cotter: Inasmuch as Senator McCarthy is not now in Washington, I am taking the liberty of acknowledging receipt of your letter of November 7.

" 'I have just talked to the Senator over the telephone and he does not know just when he will return to Washington. It presently appears that he will not be available to appear before your committee during the time you mention. However, he did state that if you will let him know just what information you desire, he will be glad to try to be of help to you.

" 'Sincerely yours,

" 'Ray Kiermas,

" '*Administrative Assistant to Senator McCarthy.*'

"The subcommittee is grateful for your offer of assistance, and we want to afford you with every opportunity to offer your explanations with reference to the issues involved. Therefore, although the subcommittee did make itself available during the past week in order to afford you an opportunity to be heard, we shall be at your disposal commencing Saturday, November 22, through but not later than Tuesday, November 25, 1952.

"This subcommittee has but one object, and that is to reach an impartial and proper conclusion based upon the facts. Your appearance, in person, before the subcommittee will not only give you the opportunity to testify as to any issues of fact which may be in controversy, but will be of the greatest assistance to the subcommittee in its effort to arrive at a proper determination and to embody in its report an accurate representation of the facts.

"Pursuant to your request, as transmitted to us through Mr. Kiermas, we are advising you that the subcommittee desires to make inquiry with respect to the following matters:

"(1) Whether any funds collected or received by you and by others on your behalf to conduct certain of your activities, including those relating to communism, were ever diverted and used for other purposes inuring to your personal advantage.

"(2) Whether you, at any time, used your official position as a United States Senator and as a member of the Banking and Currency Committee, the Joint Housing Committee, and the Senate Investigations Committee, to obtain a $10,000 fee from the Lustron Corp., which company was then almost entirely subsidized by agencies under the jurisdiction of the very committees of which you were a member.

"(3) Whether your activities on behalf of certain interest groups, such as housing, sugar, and China, were motivated by self-interest.

"(4) Whether your activities with respect to your senatorial campaigns, particularly with respect to the reporting of your financing and your activities relating to the financial transactions with the subsequent employment of Ray Kiermas, involved violations of the Federal and State Corrupt Practices Acts.

"(5) Whether loan or other transactions which you had with the Appleton State Bank of Appleton, Wis., involved violations of tax and banking laws.

"(6) Whether you used close associates and members of your family to secrete receipts, income, commodity and stock speculation, and other financial transactions for ulterior motives.

"We again assure you of our desire to give you the opportunity to testify, in executive session of the subcommittee, as to the foregoing matters. The 82d Congress expires in the immediate future and the subcommittee must necessarily proceed with dispatch in making its report to this Congress. To that end, we respectfully urge you to arrange to come before us on or before November 25, and thus enable us to do our conscientious best in the interests of the Senate and our obligation to complete our work. We would thank you to advise us immediately, so that we may plan accordingly.

"This letter is being transmitted at the direction and with the full concurrence of the membership of this subcommittee.

"Sincerely yours,

"THOMAS C. HENNINGS, Jr.,
"Chairman."

(P. 45 of the hearings.)

38. This letter was delivered by hand to the office of Senator MCCARTHY in Washington on November 21, 1952 (p. 47 of the hearings).

39. On the same day, November 21, 1952, Chairman HENNINGS sent the following telegram addressed to Senator MCCARTHY at Appleton, Wis.:

"Today you were advised by letter delivered by hand to your office of the principal matters which the subcommittee desires to interrogate you in furtherance of your express desire transmitted to the committee by your administrative assistant, Mr. Ray Kiermas, under date of November 10. The subcommittee appreciates your willingness to help in the completion of the work in connection with the investigation of resolution 187 and the investigations predicated thereon. Your prompt appearance before the subcommittee can save the Government much effort and expense. We are sure that you want to be of help to us in arriving at a proper determination of the issues in controversy. We are therefore at your disposal in executive session and for your convenience suggest that the subcommittee is available to you commencing with tomorrow, Saturday, November 22, but not later than Tuesday the 25th, to enable the committee to hear you and allow time thereafter to prepare the subcommittee report.

"Senator Benton has also been notified to appear by similar communication. This action is being taken at the direction and with the full concurrence of the committee members" (p. 47 of the hearings).

40. The copy of the telegram in the H–H–H Report, designated "Exhibit No. 42" at page 99 thereof, was not sent to Senator MCCARTHY and was inserted as an exhibit by error in place of the foregoing telegram of November 21, 1952, as shown by the fact it is not dated and as appears in the index of appendix, page 55, wherein exhibit No. 42 is described as "Telegram dated November 21, 1952, from Senator HENNINGS to Senator MCCARTHY * * *. Page 99" (p. 51 of the hearings).

41. On November 21, 1952, Senator MCCARTHY was deer hunting in northern Wisconsin (p. 298 of the hearings).

42. Senator MCCARTHY wrote to Chairman HENNINGS on November 28, 1952, stating that he had just received the wire of November 22, and that, as Senator HENNINGS had been previously advised, Senator MCCARTHY was not expected to return to Washington until November 27, on which date he did return (p. 49 of the hearings).

43. Senator MCCARTHY did not see the letter or telegram dated November 21, 1952, until November 28, 1952 (p. 299 of the hearings).

44. Senator MCCARTHY wrote to Chairman HENNINGS under date of December 1, 1952, stating as follows:

"Senator THOMAS C. HENNINGS, Jr.,
"Chairman, Subcommittee on Privileges and Elections,
"Senate Office Building.

"DEAR MR. HENNINGS: This is to acknowledge receipt of yours of November 21 in which you state that your object is to reach an 'impartial and proper conclusion based upon the facts' in the Benton application which asks for my removal from the Senate.

"I was interested in your declaration of honesty of the committee and would like to believe that it is true. As you know, your committee has the most unusual record of any committee in the history of the Senate. As you know, two members of your staff have resigned and made the public statement that their reason for resignation was that your committee was dishonestly used for political purposes. Two Senators have also resigned. One, Senator WELKER, in the strongest possible language, indicted your committee for complete dishonesty in handling your investigation. Senator GILLETTE also resigned without giving any plausible reason for his resignation from the committee. Obviously, he also couldn't stomach the dishonest use of public funds for political purposes. For that reason it is difficult for me to believe your protestations of the honesty of your committee.

"I would, therefore, ordinarily not dignify your committee by answering your letter of November 21. However, I decided to give you no excuse to claim in your report that I refused to give you any facts. For that reason you are being informed that the answer to the six insulting questions in your letter of November 2' is 'No.' You understand that in answering these questions I do not in any way approve of nor admit the false statements and innuendoes made in the questions.

"I note with some interest your reference to my 'activities on behalf of certain special-interest groups, such as housing, sugar, and China.' I assume you refer to my drafting of the comprehensive Housing Act of 1946, which was passed without a single dissenting vote in the Senate, either Democrat or Republican. Neither you nor any other Senator has attempted to repeal any part of that Housing Act. Or perhaps you refer to the slum-clearance bill which I drafted and introduced in 1948, which slum-clearance bill was adopted in toto by the Democrat-controlled Senate in 1949.

"When you refer to sugar, I assume you refer to my efforts to do away with your party's rationing of sugar, as I promised the housewives I would during my 1946 campaign. If that were wrong, I wonder why you have not introduced legislation in the Democrat-controlled Senate to restore sugar rationing. You have had 2 years to do so.

"I thought perhaps the election might have taught you that your boss and mine—the American people—do not approve of treason and incompetence and feel that it must be exposed.

"You refer to the above as 'special interests.' I personally feel very proud of having drafted the Housing Act in 1948 which passed the Congress without a single dissenting vote—a housing act which contributed so much toward making it possible for veterans and all Americans in the middle- and low-income groups to own their own home. Likewise, I am proud of having been able to fulfill my promise to American housewives to obtain the derationing of sugar. I proved at the time that rationing was not for the benefit of the housewives but for the commercial users.

"I likewise am double proud of the part I played in alerting the American people to your administration's traitorous betrayal of American interests throughout the world, especially in China and Poland.

"You refer to such activities on my part as 'activities for special interests.' I am curious to know what 'special interests' you mean other than the special interest of the American people.

"This letter is not written with any hope of getting an honest report from your committee. It is being written merely to keep the record straight.

"Sincerely yours,

"JOE MCCARTHY."

(P. 51 of hearings.)

45. Senator MCCARTHY appeared before the Subcommittee on Privileges and Elections once only, on July 3, 1952, in connection with his charges against Senator Benton under Senate Resolution 304, without requiring a subpena (pp. 52, 290, and 375 of hearings).

46. Senator MCCARTHY did not appear before that subcommittee at any other time, nor make any explanation in defense, except as shown in the foregoing correspondence, in connection with the charges pending against him, either before or after the Senate action in Senate Resolution 300 (pp. 52 and 375 of hearings).

47. Senator MCCARTHY did make an explanation of the Lustron matter on the floor of the Senate, on August 2, 1954 (p. 53 of hearings).

48. Senate Resolution 187, introduced by Senator Benton, was not voted upon by the Senate, although it was considered by the Senate in its vote on April 10, 1952, upon Senate Resolution 300 to test the jurisdiction of the subcommittee and the integrity of its members.

49. The vote of the Senate upon Senate Resolution 300, notwithstanding any previous question of the jurisdiction of the Hennings subcommittee, was a grant of authority to that subcommittee to proceed with its investigation of the charges pending against Senator MCCARTHY since his election to the Senate.

50. Senate Resolution 187, introduced by Senator Benton, confined the subcommittee to activities of Senator MCCARTHY subsequent to his election in 1946.

51. Senator MCCARTHY's position was that he would not appear before the Hennings subcommittee upon the charges pending against him unless he was ordered to appear (p. 288 of hearings).

52. Senator MCCARTHY did not say, in any o the correspondence relating to the hearings and his appearance, that he would not appear before the subcommittee unless he was ordered to do so, but testified that he so notified Chairman GILLETTE orally (p. 288 of hearings).

53. Senator MCCARTHY advised Chairman GILLETTE that unless he was given the right to cross-examine, that he had no desire to appear before the subcommittee but that he would appear if ordered to do so (p. 288 of hearings).

54. At the hearings before the select committee, Senator MCCARTHY testified that the subcommittee knew that a witness was mentally incompetent "and they were going to call him solely for the purpose of doing a smear job" (p. 296 of hearings).

55. At the hearings before the select committee, Senator MCCARTHY testified that the insertion of the undated telegram, exhibit No. 42 in the Hennings report (found by this select committee to be a clerical error), "was completely dishonest," insisting upon this conclusion when the chairman asked whether it could not have been a mistake (pp. 299, 384, and 385 of hearing record).

56. Senator MCCARTHY told Chairman GILLETTE "that I would not appear unless I was ordered to appear or subpenaed. I forget which word I used. I told him I had no desire to appear before that committee and that his extending an opportunity meant nothing to me" (p. 305 of the hearings).

57. The report of the Subcommittee on Privileges and Elections was filed January 2, 1953 (p. 306 of the hearings).

58. On that day, Senator MCCARTHY, according to his own testimony, called Senator HENDRICKSON, a member of that subcommittee, by telephone and told him that it was completely dishonest to sign a report that was factually wrong (p. 306 of the hearings).

59. That evening Senator MCCARTHY gave a statement to the press regarding Senator HENDRICKSON, a member of that subcommittee, stating:

"This report accuses me either directly or by innuendo and intimation of the most dishonest and improper conduct.

"If it is true, I am unfit to serve in the Senate. If it is false, then the three men who joined in it—namely, HENDRICKSON, HENNINGS, and HAYDEN—are dishonest beyond words.

"If those three men honestly think that all of the four things of which they have accused me, are true, they have a deep, moral obligation tomorrow to move that the Senate does not seat me as a Senator.

"If they think the report is true, they will do that. If they know the report is completely false and that it has been issued only for its smear value, then they will not dare to present this case to the Senate.

"This committee has been squandering taxpayers' money on this smear campaign for nearly 18 months. If they feel that they are honest and right, why do they fear presenting their case to the Senate?

"I challenge them to do that. If they do not, they will have proved their complete dishonesty.

"I can understand the actions of the left-wingers in the administration, like HENNINGS and HAYDEN. As far as HENDRICKSON is concerned, I frankly can bear him no ill will.

"Suffice it to say that he is a living miracle in that he is without question the only man in the world who has lived so long with neither brains nor guts" (pp. 67 and 68 of hearing record).

60. By letter of September 10, 1952, Chairman GILLETTE of the subcommittee wrote to Chairman HAYDEN, of the Committee on Rules and Administration, suggesting that the membership of the subcommittee be reduced from 5 members to 3, as it was originally, to facilitate the work of the subcommittee (p. 294 of the hearings).

61. Senator WELKER resigned as a member of the subcommittee on September 9, 1952 (p. 291 of the hearings).

62. Chairman GILLETTE resigned as a member of the subcommittee on September 26, 1952 (p. 294 of the hearings).

63. After consultation with the Parliamentarian, Senator HAYDEN, chairman of the parent Committee on Rules and Administration, decided it was unnecessary to appoint 2 Members of the Senate to take the places of those who had resigned, because it was a committee of 5 with a majority of 3, and because the Senate not being in session, it was very difficult to obtain Senators who were members of the Committee on Rules and Administration (p. 361 of the hearings).

64. Senator MONRONEY, who was in Europe, resigned as a member of the subcommittee on November 20, 1953 (p. 361 of the hearings).

65. On November 20, 1952, Senator HAYDEN made it a matter of record by writing to the clerk of the Committee on Rules and Administration that he was appointing himself a member of the Subcommittee on Privileges and Elections in place of Senator MONRONEY (p. 362 of the hearings).

66. The subcommittee, with Senator HENNINGS as chairman, and Senators HENDRICKSON and HAYDEN as members, continued to function until January 16, 1953 (pp. 362 and 367 of the hearings).

67. Since January 1953 the Subcommittee on Privileges and Elections has had but three members (p. 362 of the hearings).

68. The suggestion of Senator GILLETTE that the membership of the subcommittee be reduced to three members was given consideration by both the Committee on Rules and Administration and the subcommittee (p. 362 of the hearings).

69. Senators HENNINGS, HAYDEN, and HENDRICKSON signed the subcommittee report pursuant to Senate Resolution 187 and Senate Resolution 304 (p. 363 of the hearings).

70. It was the opinion of Chairman HAYDEN, of the Committee on Rules and Administration, that without reducing the subcommittee to 3 members, the subcommittee could continue to function as a committee of 5 with but 3 members (p. 365 of the hearings).

71. It was the opinion of Chairman HAYDEN, that the Senate not being in session, it was not necessary for him as chairman of the parent committee to obtain confirmation by the parent committee of appointments to the subcommittee (p. 365 of the hearings).

72. Chairman HAYDEN testified that there was immediate important work for the subcommittee to do and that there was no other than himself on the Committee on Rules and Administration who could be appointed to the subcommittee (p. 365 of the hearings).

73. This manner of conducting the Subcommittee on Privileges and Elections was consistent with its practice since before the 81st Congress and did not violate any rule of the parent committee (p. 366 of the hearings).

74. Chairman HAYDEN continued as chairman of the Committee on Rules and Administration, and Chairman HENNINGS of the Subcommittee on Privileges and Elections continued in office until about January 16, 1953 (pp. 367 and 369 of the hearings).

75. At the hearings before the select committee, Senator MCCARTHY testified, when asked whether he had any evidence to support his written statements that the subcommittee was spending tens of thousands of dollars and as guilty as though engaged in picking the pockets of the taxpayers to turn the loot over to the Democratic National Committee, that he had produced this evidence in letters to the subcommittee (p. 377 of the hearings).

76. No such evidence appears in the letters.

77. When asked whether he had any evidence that the subcommittee had spent tens of thousands of dollars illegally, Senator MCCARTHY testified that "they were spending a vast amount of money illegally, I don't know the exact figure" (p. 378 of the hearings).

78. When asked whether he knew that the matters pending before the subcommittee reflected seriously upon his character and activities and were of sufficient moment ordinarily to justify making some reply, Senator MCCARTHY testified that: "They were six insulting questions asked by the committee—by a Senator, not by a legal committee. I answered his questions. I told him the answer was 'No'" (p. 383 of the hearings). (But note that the above answer was contained in a letter from Senator MCCARTHY to Senator HENNINGS dated December 1, 1952, addressed to the latter as chairman of the Subcommittee on Privileges and Elections) (pp. 51–52 of the hearings).

79. At page 384 of the hearings Senator MCCARTHY was asked whether it was his position that when matters of that serious nature are pending against a Member of the United States Senate, instead of appearing and making an answer, he can call them "insulting" and need not appear, and Senator MCCARTHY testified in reply that: "They are no more 'matters' than the 46 statements made by Senator FLANDERS."

80. On January 2, 1953, Senator MCCARTHY bitterly criticized Senator HENDRICKSON with reference to the latter's work with the Subcommittee on Privileges and Elections, and then gave to the press a statement that Senator HENDRICKSON was "a living miracle in that he is without question the only man who has lived so long with neither brains nor guts" (pp. 66 and 425 of the hearings). (See also finding of fact No. 59.)

81. At the hearings before the select committee, when given the opportunity by Senator CASE to withdraw or modify his remarks about Senator HENDRICKSON, a member of the subcommittee, Senator MCCARTHY indicated he had no desire to change his position (p. 425 of the hearings).

C. Legal questions involved in this category

Several legal questions are involved and were considered in this part of the inquiry. They may be stated briefly as follows:

1. Is the Senate a continuing body?

2. Does the Senate have the power to censure a Senator for conduct occurring during his prior term as Senator?

3. Was it necessary for Senate Resolution 187 to be adopted by the Senate?

4. Was the Gillette-Hennings subcommittee acting beyond its power and jurisdiction?

5. Was it a lawfully constituted subcommittee?

6. Was it necessary for that subcommittee to subpena Senator MCCARTHY?

7. Was Senator MCCARTHY repeatedly invited to appear?

8. Was it the duty of Senator MCCARTHY to appear without an order or subpena to appear and was his failure to appear obstructive?

9. Was the request to Senator MCCARTHY to appear a legal basis for contempt, and was his reply contumacious?

10. Was Senator MCCARTHY's conduct toward that subcommittee contemptuous, independently of his failure to appear?

11. Did Senator MCCARTHY denounce the subcommittee?

12. Has the conduct of Senator MCCARTHY been continmacious toward the Senate by failing to explain the six charges contained in the subcommittee's report?

13. Did the reelection of Senator MCCARTHY in 1952 make these matters moot?

Discussion of Legal Questions

1. The Senate is a continuing body: The fact that the Senate is a continuing body should require little discussion. This had been uniformly recognized by history, precedent, and authority. While the rule with reference to the House, whose Members are elected all for the period of a single Congress may be different, the Senate is a continuing body, whose Members are elected for a term of 6 years, and so divided into classes that the seats of one-third only became vacant at the end of each Congress. Senate Document No. 99, 83d Congress, 2d session, Congressional Power of Investigation, page 7.

The continuity of the Senate was questioned at the beginning of the 83d Congress, and the issue was decided in favor of the precedents. CONGRESSIONAL RECORD, Senate—January 6, 1953, pages 92–114. Senate rule XV (2) provides that each standing committee shall continue and have power to act until their successors are appointed. Senate rule XXXII provides that the legislative business of the Senate shall be continued from session to session, and that the legislative business which remains undetermined at the close of the next preceding session of that Congress shall be resumed as if no adjournment had taken place. This rule makes it clear that all legislative business continues from session to session. See Senate Document No. 4, 1953, 83d Congress. The rule that the Senate is a continuing body has been recognized by the Supreme Court, in *McGrain* v. *Daugherty* (273 U. S. 135, 182 (1927)), where the Court said:

"This being so, and the Senate being a continuing body, the case cannot be said to have become moot in the ordinary sense."

2. The Senate has the power to censure a Senator for conduct occurring during his prior term as Senator:

The contention has been made by Senator MCCARTHY that since he was reelected in 1952 and took his seat for a new term on January 3, 1953, the select committee lacks power to consider any conduct on his part, occurring prior to January 3, 1953, as the basis for censure. His counsel based this contention on several cases cited as authority for this proposition (p. 19 of the hearings), being *Anderson* v. *Dunn* (6 Wheat. 204); *Jurney* v. *MacCracken* (294 U. S. 125); and *U. S.* v. *Bryan* (339 U. S. 323). The argumentative basis for this contention is that the power to censure is part of the power of the Senate to punish for contempt, and that any limitations on the latter power must necessarily

limit the power to censure. This contention is without foundation for at least two reasons: (1) The power to censure is an independent power and may be exercised by the Senate for conduct totally unrelated to any act or acts which may be contemptuous; and (2) even assuming that the power to censure is limited to the extent of the power to punish for contempt, the authorities cited do not sustain the proposition advanced.

The case of *Anderson* v. *Dunn* (6 Wheat. 204 (1821)) was an action in trespass for an assault and battery and false imprisonment against the Sergeant at Arms of the House of Representatives. The Supreme Court held that the defendant Sergeant at Arms had a proper and lawful defense by showing that he acted under the orders of the Speaker and had taken the plaintiff into custody for a high contempt of the dignity of the House. The only possible relevancy of the opinion to the matters now pending before the select committee appears in the opinion by Mr. Justice Johnson, at page 231, that the duration of the imprisonment for contempt of the House is limited when the legislative body ceases to exist on the moment of its adjournment, and the imprisonment must terminate with that adjournment. It is clear that this was dictum, applies to the House and not to the Senate, does not involve a case of censure of a Member of the Senate, and was the law only until Congress by statute made contempt of either House a criminal offense.

In the case of *Jurney* v. *MacCracken* (294 U. S. 125 (1935)) the defendant, a lawyer, was arrested by the Sergeant at Arms of the Senate, pursuant to a resolution of the Senate, for contempt in failing to produce and permitting the removal and destruction of certain papers, after they had been subpenaed by the special Senate committee investigating ocean and airmail contracts. The Supreme Court affirmed the dismissal of the defendant's writ of habeas corpus holding that where the offending act was of a nature to obstruct the legislative process, the fact that the obstruction has since been removed or that its removal has become impossible is without significance; that the enactment of Revised Statute 102 did not impair the right of Congress to punish for contempt; and that whether a recalcitrant witness has purged himself of contempt is for Congress to decide and cannot be inquired into by a court by a writ of habeas corpus. It is evident that this case does not deal with any question of censure or punishment of a Member of the Senate. MacCracken did contend that the Senate was absolutely without power itself to impose punishment for a past act, and that such punishment must be inflicted by the courts, as for other crimes, and under the safeguard of all constitutional provisions, but this contention was dismissed by the opinion of the Supreme Court, delivered by Mr. Justice Brandeis, at page 149.

The case of *United States* v. *Bryan* (339 U. S. (1950)) involved a criminal trial for contempt of the House Committee on Un-American Activities, and the refusal of the defendant to produce certain records under subpena from that committee. In the opinion of the Supreme Court, by Mr. Chief Justice Vinson, mention is made of Revised Statutes, section 102 (2 U. S. C., sec. 192), enacted in 1857. It is clear that one of the purposes of the act was to permit the imprisonment of a contemnor beyond the expiration of the current session of Congress. The Supreme Court states unequivocally that the judicial proceedings under the statute are intended as an alternative method of vindicating the authority of Congress to compel the disclosure of facts which are needed in the fulfillment of the legislative function. The select committee was advised by its counsel that this case has no apparent bearing upon the contention of Senator McCarthy in these proceedings with reference to his failure to appear before the Gillette-Hennings subcommittee. Counsel further advised that it is inappropriate to cite cases of criminal contempt as the basis for the law of censure by the Senate of one of its Members.

It seems clear that if a Senator should be guilty of reprehensible conduct unconnected with his official duties and position, but which conduct brings the Senate into disrepute, the Senate has the power to censure. The power to censure must be independent, therefore, of the power to punish for contempt. A Member may be censured even after he has resigned (2 Hinds' Precedents 1239, 1273, 1275 (1907)). Precedents in both the Senate and House for expulsion or censure for conduct occurring during a preceding Congress may be found in Hinds (op. cit., 1275 to 1289). Precedents in the House cannot be considered as controlling because the House is not a continuing body.

In this connection, it must be remembered that the report of the Subcommittee on Privileges and Elections was filed on January 2, 1953, and since the new Congress convened the next day, there was not time for action in the prior session.

While it may be the law that one who is not a Member of the Senate may not be punished for contempt of the Senate at a preceding session, this is no basis for declaring that the Senate may not censure one of its own Members for conduct antedating that session, and no controlling authority or precedent has been cited for such position.

The particular charges against Senator McCarthy, which are the basis of this category, involve his conduct toward an official committee and official committee members of the Senate. These committees continue from session to session and there is no lapse in their legislative business.

The reelection of Senator McCarthy in 1952 was considered by the select committee as a fact bearing on this proposition. This reelection is not deemed controlling because only the Senate itself can pass judgment upon conduct which is injurious to its processes, dignity, and official committees.

In the Senate on April 8, 1952 (Congressional Record, vol. 98, pt. 3, pp. 3701–08), at the request of Senator Hayden, there were ordered printed Senate Expulsion, Exclusion, and Censure Cases Unconnected with Elections, 1871–1951.

A résumé of precedents on expulsion, exclusion, and censure cases since the organization of the Committee on Privileges and Elections is printed at page 73 of the Hennings-Hayden-Hendrickson report. Another collection of Senate precedents appears in the Congressional Record, Senate, August 2, 1954, pafie 12989, being a study prepared by William R. Tamsill, of the Government Division of the Legislative Reference Service of the Library of Congress, printed on motion of Senator Morse. In election cases, the Senate, of course, considers conduct occurring before the commencement of the term of the Senator involved. Senator Morse, in the same day, had printed in the same Congressional Record at page 12999 certain pertinent material from Hinds' Precedents, and at pages 13000–01 certain pertinent material from Cannon's Precedents.

From an examination and study of all available precedents, the select committee is of the opinion that the Senate has the power, under the circumstances of this case, to elect to censure Senator McCarthy for conduct occurring during his prior term in the Senate, should it deem such conduct censurable.

3. It was not necessary for the Senate Resolution 187 to be adopted by the Senate:

Senate Resolution 187, introduced by Senator Benton on August 6, 1951, was not actually a resolution for the expulsion of Senator McCarthy. In the resolution paragraph the Committee on Rules and Administration is authorized to make an investigation "as may be appropriate to enable such committee to determine whether or not it should initiate action with a view toward the expulsion from the United States Senate of the said Senator, Joseph R. McCarthy."

In the regular order of Senate business, after this resolution was introduced, it was referred by the President of the Senate, without a vote by the Senate, to the Committee on Rules and Administration.

The Legislative Reorganization Act of 1946, in section 102, which incorporates rule XXV of the Standing Rules of the Senate, provides that among the standing committees to be appointed at the commencement of each Congress, with leave to report by bill or otherwise, there shall be a Committee on Rules and Administration, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to * * * credentials and qualifications. By section 134–A of the same act each standing committee of the Senate, including any subcommittee of such committee, is authorized to hold such hearings, to sit and act at such times and places during the sessions and adjourned periods of the Senate, to require by subpena or otherwise the attendance of such witnesses * * * as it deems advisable. It is further provided in the same section that each such committee may make investigations into any matter within its jurisdiction and report such hearings as may be had by it.

As stated by Senator Case (at p. 61 of the hearings) reference is made on page 71 of the Hennings report, being the report of the Subcommittee on Privileges and Elections to the Committee on Rules and Administration pursuant to Senate Resolutions 187 and 304, that investigations with reference to alleged misconduct by a Senator may be undertaken by the Subcommittee on Privileges and Elections with or without specific Senate authorization or direction. That report states at the page indicated:

"The old Committee on Privileges and Elections was presented with five cases of expulsion or exclusion unconnected with an election. In three of these cases, those of Smoot, Burton, and Gould, the Senate adopted resolutions directing an investigation of the charges against the respective Senators. In the other two cases, those of La Follette and Langer, the petitions and protests of private citizens were referred by the Presiding Officer to the Committee on Privileges and Elections, which then conducted investigations without obtaining resolutions of authorization from the Senate.

"These precedents indicate that the legal power of the subcommittee to conduct investigations of its own motion is not subject to question; and, also, that the subcommittee may act under a resolution formally adopted by the Senate."

It is the opinion of the select committee, in addition to the conclusion made evident by the foregoing precedents, that the vote of the Senate on April 10, 1952, upon Senate Resolution 300, 82d Congress, 2d session, introduced by Senator Hayden for himself and Senators Gillette, Monroney, Hennings, and Hendrickson, to obtain the sense of the Senate upon the right and power of the Committee on Rules and Administration and its Subcommittee on Privileges and Elections to proceed with the investigation of Senator McCarthy under Senate Resolution 187, and to obtain a vote of confidence from the Senate in the integrity of the committee members, carried all the implications, and was to the same effect, as if the Senate by vote had directed that committee and subcommittee, on August 6, 1951, to proceed with the investigation sought by Senate Resolution 187.

It is, therefore, the opinion of the select committee that it was not necessary for Senate Resolution 187 to have been adopted by the Senate.

4. The Gillette-Hennings Subcommittee on Privileges and Elections was not acting beyond its power or jurisdiction:

The action of the Senate upon Senate Resolution 300 must be considered as an affirmance that as of April 10, 1952, when the actions of the Subcommittee on Privileges and Elections and the integrity of its members were ratified and approved by a vote of 60 to 0, the committee and subcommittee were acting within its power and jurisdiction.

The jurisdiction of the Subcommittee on Privileges and Elections was not limited to the conduct of Senator McCARTHY connected with elections only but extended to acts totally unconnected with election matters, but which were relevant to inquiries relating to expulsion, exclusion, and censure. The debate in the Senate and the vote of the Senate makes this abundantly clear. (See CONGRESSIONAL RECORD, vol. 98, pt. 3, pp. 3701–08. One of the principal purposes of the introduction of Senate Resolution 300 was to affirm or deny the contention of Senator McCARTHY that the Subcommittee on Privileges and Elections lacked jurisdiction to investigate such acts as were not connected with elections and campaigns. Senate Resolution 187, introduced by Senator Benton, provided for an investigation with reference to the other acts of Senator McCARTHY since his election to the Senate (in the fall of 1946), as might be appropriate to carry out the purposes of the resolution. It is clear, therefore, that the subcommittee had the right and the power to investigate the acts of Senator McCARTHY at least since January 1947. While Senate Resolution 187 did not itself specify any charges against Senator McCARTHY, the charges pending upon the Subcommittee on Privileges and Elections were known to Senator McCARTHY and were disclosed to him in detail in the correspondence between him and the chairman of the subcommittee. Most of the six charges referred clearly to activities of Senator McCARTHY after January 1947. It may be, although this select committee is not in a position to so decide, that some parts of the investigations and proceedings of the Subcommittee on Privileges and Elections were concerned with matters arising before January 1947, but it is the judgment of this select committee that this extension of power and authority did not ipso facto nullify the power and jurisdiction of that subcommittee to proceed with its lawful duties and powers.

It is, therefore, the judgment of the select committee that for the purposes of the present inquiry, it can be stated that the Gillette-Hennings Subcommittee on Privileges and Elections was not acting beyond its power and jurisdiction so far as forming a basis for the possible censure of Senator McCARTHY by reason of his conduct in relation with and toward that subcommittee.

5. The Gillette-Hennings Subcommittee on Privileges and Elections was a lawfully constituted committee:

As shown by the testimony taken in this proceeding, the subcommittee originally had five members. After the resignations of Senators WELKER and GILLETTE, and the reduction of the number of acting members to 3, Senator HAYDEN, chairman of the Committee on Rules and Administration, the parent committee, decided that it was not necessary to fill the 2 vacancies, and that the work of the subcommittee would be better performed by the smaller number. After that time, Senator MONRONEY resigned, and Senator HAYDEN then appointed himself to that vacancy, so that the subcommittee continued with three members.

Senator HAYDEN testified that there was no rule of the parent committee or subcommittee which was contrary to the procedure adopted in this case, and that the procedure was consonant with the practice both before and after 1952. As a matter of fact, the subcommittee since 1952 has consisted of three members.

With the approval of Senator McCARTHY and his counsel, testimony was taken from Charles L. Watkins, the Senate Parliamentarian, upon the status and legality of the Gillette-Hennings subcommittee. This testimony appears on page 535 of the hearings, and may be epitomized as follows:

"1. The three-member subcommittee, as constituted by Senator HAYDEN, after the resignation of Senator MONRONEY, by appointing himself as the third member, was a legal committee for the discharge of regular business under the rules and precedents of the Senate.

"2. There was no mandatory requirement for a chairman to fill a vacancy on a subcommittee.

"3. Chairman HAYDEN of the parent Committee on Rules and Administration, had the right to appoint himself a member of the Subcommittee on Privileges and Elections, without submitting the appointment to the Committee on Rules and Administration, for prior approval or subsequent ratification.

"4. This was particularly true when the Senate was not in session.

"5. Chairman HAYDEN had the right to recognize Senator HENNINGS as chairman of the Subcommittee on Privileges and Elections, and had the right to appoint the chairman of the subcommittee.

"6. The subcommittee of 3 members had the right to designate 1 member as a legal quorum for the purpose of taking testimony.

"7. The subcommittee of 3 members was authorized and had the duty to make a report to the full committee, signed by its 3 members, Senators HENNINGS, HAYDEN, and HENDRICKSON, and file the report with the full Committee on Rules and Administration, with Senator HAYDEN as chairman.

"8. In a quasi-judicial proceeding such as an expulsion matter, although 3 of the original 5 members of the Subcommittee on Privileges and Elections have resigned, although 2 of the vacancies have not been filled, and the chairman of the Committee on Rules and Administration has appointed himself to the third vacancy on the subcommittee, that subcommittee of 3 members had the right to file a valid legal report with the parent committee, when less than half of its original 5 members have heard the evidence."

6. It was not necessary for the subcommittee to subpena Senator McCARTHY:

A question has been raised in these proceedings whether it was necessary for the Subcommittee on Privileges and Elections to subpena Senator McCARTHY to appear before it.

According to his testimony, he had no desire to appear before the subcommittee and advised the chairman that he would not appear before it to answer the charges made against him and pending before that subcommittee, unless he was ordered so to do. The provisions of the Legislative Reorganization Act, above referred to, make it clear that the subcommittee had the power and right to require the attendance of Senator McCARTHY for purposes of investigation and examination "by subpena or otherwise." It can be stated, therefore, categorically, that it was not necessary for the subcommittee to issue its subpena for him. Section 134–A of the Legislative Reorganization Act does refer to requiring the attendance of witnesses, and the select committee is of the opinion that an invitation to appear, is not such action indicating a requirement to appear as is contemplated by the act. It is the opinion of the select committee that a request to appear, such as the letter and telegram from the subcommittee to Senator McCARTHY dated November 21, 1952, was sufficient (aside from any question whether Senator McCARTHY received them in time) to meet the requirements of the law. The related questions whether Senator McCARTHY was repeatedly invited to appear, and whether he should have appeared even without invitation and without request or subpena, are considered hereinafter.

7. Senator McCARTHY was repeatedly invited to appear: The select committee has carefully considered all the letters in evidence between Senator McCARTHY and the Subcommittee on Privileges and Elections, and all the testimony relating to his appearance before the subcommittee. The facts relating to whether or not Senator McCARTHY was repeatedly invited to appear before that subcommittee in order to make answer to the very serious charges against his character and his activities in the Senate have already been found by the select committee and incorporated hereinabove as finding of fact. This evidence and this testimony, upon analysis, has convinced the select committee that Senator McCARTHY was invited by that subcommittee to appear before it in order to aid its investigation and to give answer to the charges made against him and pending before that subcommittee. It must be remembered that Senator McCARTHY wrote to Chairman GILLETTE under date of September 17, 1951, stating that he intended to appear to question witnesses (see finding of fact No. 7). Senator McCARTHY was invited to appear before the subcommittee by letter of September 25, 1951 (finding of fact No. 8), by letter of October 1, 1951 (finding of fact No. 10), by letter of December 21, 1951 (finding of fact No. 20), by letter of May 7, 1952 (finding of fact No. 30), by letter of May 10, 1952 (finding of fact No. 33), and by letter of November 7, 1952 (finding of fact No. 35).

8. It was the duty of Senator McCARTHY to accept the repeated invitations by the subcommittee and his failure to appear was obstructive of the processes of the Senate, for no formal order or subpena should be necessary to bring Senators before Senate committees when their own honor and the honor of the Senate are at issue:

The matters against Senator McCARTHY under investigation by the Gillette-Hennings subcommittee were of a serious nature. Apparently, Senator McCARTHY knew the nature of these matters since he testified:

"I know all about this matter: I have been living with it. It had been under way. They had been going far beyond the resolution, investigating things they had no right to investigate; going back beyond the time that I was even old enough to run for Senator, investigating the income-tax returns of my father, who died before I was elected. So I knew those facts" (p. 385 of the hearings).

Furthermore Chairman GILLETTE specified one of the matters against Senator McCARTHY (that of the Lustron payment), in his letter of May 7, 1952, to Senator McCARTHY (p. 32 of the hearings), and Chairman HENNINGS specified all six of the matter in his letter to Senator McCARTHY of November 21, 1952 (p. 45 of the hearings).

The mere reading of these matters (p. 46 of the hearings) without deciding or attempting to decide whether they are true or not, makes it clear that the honesty, sincerity, character, and conduct of Senator McCARTHY were under inquiry. It is the opinion of the select committee that when the personal honor and official conduct of a Senator of the United States are in question before a duly constituted committee of the Senate, the Senator involved owes a duty to himself, his State, and to the Senate, to appear promptly and cooperate fully when called by a Senate committee charged with the responsibility of inquiry. This must be the rule if the dignity, honor, authority, and powers of the Senate are to be respected and maintained. This duty could not and was not fulfilled by questioning the authority

and jurisdiction of the subcommittee, by accusing its members of the dishonest expenditure of public funds, or even by charging that the subcommittee was permitting itself to be used to serve the cause of communism. When persons in high places fail to set and meet high standards, the people lose faith. If our people lose faith, our form of government cannot long endure.

The appearance which we believe was necessary was before a subcommittee of the Senate itself, to which subcommittee the Senate, through its normal processes, had confided a mater affecting its own honor and integrity. In such a case legal process was not and should not be required.

9. The request of November 21, 1952, to Senator McCarthy to appear did not form a legal basis for contempt, but his reply of December 1, 1952, was, in itself, contumacious in character:

As appears from the findings of fact, Senator McCarthy was formally requested to appear by letter and by telegram from Subcommittee Chairman Hennings, dated November 21, 1952. The request was that he appear before the subcommittee between November 22 and November 25, 1952 (p. 46 of the hearings).

Senator McCarthy testified that he was in Wisconsin, on a hunting trip, and that he did not see the letter or telegram until November 28, 1952 (p. 298 of the hearings). The select committee accepts this testimony as true.

Considering this request as a formal request, and Senator McCarthy being unable to appear in the dates fixed because he did not know of the request in time, we believe that this request, considered independently, would not be contempt in the ordinary legal sense, but we think the letter which he wrote in reply to the request was contumacious in its entire form and manner of expression when directed at a committee of the Senate seeking to act upon a matter referred to it (p. 51 of the hearings).

10. The conduct of the junior Senator from Wisconsin toward the Subcommittee on Privileges and Elections was contemptuous, independently of his failure to appear:

We have considered carefully all of the correspondence and all the conduct, relation, and attitude of Senator McCarthy toward the Subcommittee on Privileges and Elections. We believe it fair to say on the evidence in this record that the junior Senator from Wisconsin did not intend to appear before that subcommittee for examination.

He first questioned the jurisdiction of the subcommittee to inquire into any but election charges. Later he contended that the subcommittee was investigating conduct preceding his election to the Senate, and that, therefore, its activities were illegal.

He also stated that he would not appear unless he were given the right to cross-examine witnesses. We feel that this right should have been accorded to him and that upon proper request, either to the Committee on Rules and Administration, of which Senator McCarthy was a member (p. 27 of the hearings), or to the Senate itself, he could have obtained this right, but that in any event, this cannot be a justification for contemptuous conduct.

The letters of Senator McCarthy to the respective chairmen of the subcommittee dated December 6, 1951 (p. 24 of the hearings), December 19, 1951 (p. 27 of the hearings), March 21, 1952 (p. 30 of the hearings), May 8, 1952 (p. 32 of the hearings), May 8, 1952 (p. 35 of the hearings), May 11, 1952 (p. 44 of the hearings), and December 1, 1952 (p. 51 of the hearings), are clearly contemptuous, disregarding entirely his duty to cooperate, ridiculing the subcommittee, accusing these committee officers of the Senate with dishonesty and impugning their motives, and making it impossible for them to proceed in orderly fashion, or to complete their duties.

The same attitude was expressed in the statement given to the press by Senator McCarthy on January 2, 1953 (p. 68 of the hearings).

The letters to Senator McCarthy from Chairman Gillette, later from Chairman Hennings, and the letter from Chairman Hayden, were uniformly courteous and cooperative, as one Senator should have the right to expect from colleagues. There is no justification in this record for the harsh criticisms directed by Senator McCarthy to the subcommittee, in letters apparently sometimes given to the press before receipt by the person to whom directed (p. 27 of the hearings).

It is the opinion of the select committee that this conduct of Senator McCarthy was contemptuous, independently of his failure to appear before the subcommittee.

11. The junior Senator from Wisconsin did "denounce" the Senate Subcommittee on Privileges and Elections without justification:

We feel that the fact that Senator McCarthy denounced the Subcommittee on Privileges and Elections is established by reference to a few of the letters in the exchange of correspondence. In his letter of December 6, 1951 (p. 24 of the hearings), to Chairman Gillette, Senator McCarthy states that when the subcommittee, without Senate authorization, is "spending tens of thousands of taxpayers' dollars for the sole purpose of digging up campaign material against McCarthy, then the committee is guilty of stealing just as clearly as though the members engaged in picking the pockets of the taxpayers and turning the loot over to the Democrat National Committee." Such language directed by a Senator toward a committee of the Senate pursuing its authorized functions is clearly intemperate, in bad taste, and unworthy of a Member of this body.

These accusations by Senator McCarthy are continued and repeated in his letter to Chairman Gillette dated December 19, 1951 (p. 27 of the hearings). Under date of March 21, 1952 (p. 30 of the hearings), Senator McCarthy wrote to Senator Hayden, chairman of the parent Committee on Rules and Administration that: "As you know, I wrote Senator Gillette, chairman of the subcommittee, that I consider this a completely dishonest handling of taxpayers' money." Similar language is used in Senator McCarthy's letters down to the last dated December 1, 1952 (p. 51 of the hearings).

If Senator McCarthy had any justification for such denunciation of the subcommittee, he should have presented it at these hearings. His failure so to do leaves his denunciation of officers of the Senate without any foundation in this record.

The members of the subcommittee were Senators representing the people of sovereign States. They were performing official duties of the Senate. Every Senator is understandably jealous of his honor and integrity, but this does not bar inquiry into his conduct, since the Constitution expressly makes the Senator the guardian of his own honor.

It is the opinion of the select committee that these charges of political waste and dishonesty for improper motives were denunciatory and unjustified.

In this connection, attention is directed to the charges referred to this committee relating to words uttered by the junior Senator from Wisconsin about individual Senators.

It has been established, without denial and in fact with confirmation and reiteration, that Senator McCarthy, in reference to the official actions of the junior Senator from New Jersey [Mr. Hendrickson], as a member of the Subcommittee on Privileges and Elections, questioned both his moral courage and his mental ability.

His public statement with reference to Senator Hendrickson was vulgar and insulting. Any Senator has the right to question, criticize, differ from, or condemn an official action of the body of which he is a Member, or of the constituent committees which are working arms of the Senate in proper language. But he has no right to impugn the motives of individual Senators responsible for official action, nor to reflect upon their personal character for what official action they took.

If the rules and procedures were otherwise, no Senator could have freedom of action to perform his assigned committee duties. If a Senator must first give consideration to whether an official action can be wantonly impugned by a colleague, as having been motivated by a lack of the very qualities and capacities every Senator is presumed to have, the processes of the Senate will be destroyed.

12. The conduct of Senator McCarthy has been contumacious toward the Senate by failing to explain three of the questions raised in the subcommittee's report:

The report of the subcommittee was filed on January 2, 1953. Since that time Senator McCarthy has given to the Senate, on the Senate floor, an explanation of the Lustron matter only. Of the other 5 matters mentioned in the November 21, 1952, letter by Chairman Hennings, 3 are of serious nature, reflecting upon Senator McCarthy's character and integrity, and have not been answered either before the Senate or before any of its committees.

It is our opinion that the failure of Senator McCarthy to explain to the Senate these matters: (1) Whether funds collected to fight communism were diverted to other purposes inuring to his personal advantage; (2) whether certain of his official activities were motivated by self-interest; and (3) whether certain of his activities in senatorial campaigns involved violations of the law; was conduct contumacious toward the Senate and injurious to its effectiveness, dignity, responsibilities, processes, and prestige.

13. The reelection of Senator McCarthy in 1952 did not settle these matters:

This question is answered in part by our conclusions that the Senate is a continuing body and has power to censure a Senator for conduct occurring during his prior term as Senator, and in part by the fact that some of the contumacious conduct occurred after his reelection, notably the letter of December 1, 1952. The Senate might have proceeded with this matter in 1953 or earlier in 1954 had the necessary resolution been proposed.

Some of the questions, notably the use for private purposes of funds contributed for fighting communism, were not raised until after the election. The people of Wisconsin could pass only upon what was known to them.

Nor do we believe that the reelection of Senator McCarthy by the people of Wisconsin in the fall of 1952 pardons his conduct toward the Subcommittee on Privileges and Elections. The charge is that Senator McCarthy was guilty of contempt of the Senate or a senatorial committee. Necessarily, this is a matter for the Senate and the Senate alone. The people of Wisconsin can only pass upon issues before them; they cannot forgive an attack by a Senator upon the integrity of the Senate's processes and its committees. That is the business of the Senate.

D. Conclusions

It is, therefore, the conclusion of the select committee that the conduct of the junior Senator from Wisconsin toward the Subcommittee on Privileges and Elections, toward its members, including the statement concerning Senator Hendrickson acting as a member of the subcommittee, and toward the Senate, was contemptuous, contumacious, and denunciatory, without reason or justification, and was obstructive to legislative

processes. For this conduct, it is our recommendation that he be censured by the Senate.

II. CATEGORY 2: INCIDENTS OF ENCOURAGEMENT OF UNITED STATES EMPLOYEES TO VIOLATE THE LAW AND THEIR OATHS OF OFFICE OR EXECUTIVE ORDERS

A. Summary of evidence

The committee, pursuant to the category 2, "Incidents of encouragement of United States employees to violate the law and their oaths of office or Executive orders," received evidence and took testimony regarding:

1. Amendment proposed by Mr. FULBRIGHT to the resolution (S. Res. 301) to censure the Senator from Wisconsin, Mr. MCCARTHY, viz:

"(5) The junior Senator from Wisconsin openly, in a public manner before nationwide television, invited and urged employees of the Government of the United States to violate the law and their oath of office."

2. Amendment proposed by Mr. MORSE to the resolution (S. Res. 301) to censure the Senator from Wisconsin, Mr. MCCARTHY, viz:

"(e) Openly invited and incited employees of the Government to violate the law and their oaths of office by urging them to make available information, including classified information, which in the opinion of the employees could be of assistance to the junior Senator from Wisconsin in conducting his investigations, even though the supplying of such information by the employee would be illegal and in violation of Presidential order and contrary to the constitutional rights of the Chief Executive under the separation-of-powers doctrine."

This category involves alleged statements by Senator MCCARTHY made at and during the hearings before the Special Subcommittee on Investigations for the Committee on Government Operations of the United States Senate pursuant to Senate Resolution 189, and reveals the following specific charges:

1. "That Senator MCCARTHY openly, in a public manner before nationwide television, invited, urged, and incited employees of the Government to violate the law and their oaths of office.

2. "That he invited, urged, and incited such employees to give him classified information.

3. That the supplying of such classified information by such employees would be illegal, in violation of Presidential orders and contrary to the constitutional rights of the Chief Executive."

The committee received documentary evidence in the form of excerpts from the printed record of the testimony taken and published by the Special Subcommittee on Investigations for the Committee on Government Operations, oral testimony by Senator MCCARTHY in his own behalf, and received documentary evidence offered by him from the reports of the Internal Security Subcommittee and the Committee on the Judiciary of the Senate wherein Government workers were invited to supply certain information to congressional committees.

From the aforementioned relevant and competent evidence and testimony so adduced, the select committee regards the following as having been established:

That at the hearings of the Permanent Subcommittee on Investigations for the Committee on Government Operations, following an attempt by Senator MCCARTHY to question Secretary Stevens about the "2½-page document," and following questioning by certain members of that subcommittee, relative to the legality of his receiving and using the document, the Senator made the replies or statements which are the subject of this category of charges.

At those hearings Senator MCCARTHY took the position that—

"* * * I would like to notify those 2 million Federal employees that I feel it is their duty to give us any information which they have about graft, corruption, communism, treason, and that there is no loyalty to a superior officer which can tower above and beyond their loyalty to their country * * *" (hearing record, p. 87).

"Again, I want to compliment the individuals who have placed their oaths to defend the country against enemies—and certainly Communists are enemies—above and beyond any Presidential directive * * *" (hearing record, p. 87).

"* * * I think that the oath which every person in this Government takes, to protect and defend this country against all enemies, foreign and domestic, that oath towers far above any Presidential secrecy directive. And I will continue to receive information such as I received the other day * * *" (hearing record, p. 87).

"* * * that I have instructed a vast number of these employees that they are dutybound to give me information even though some little bureaucrat has stamped it 'secret' to protect himself" (hearing record, p. 87).

"I don't think any Government employee can deny the people the right to know what the facts are by using a rubber stamp in stamping something 'secret'" (hearing record, p. 89).

"* * * while I am chairman of the committee I will receive all the information I can get about wrongdoing in the executive branch" (p. 89 of the hearings).

"I think that oath to defend our country against all enemies foreign and domestic, towers above and beyond any loyalty you might have to the head of a bureau or to the head of a department" (p. 90 of the hearings).

"I am an authorized person to receive information in regard to any wrongdoing in the executive branch. When you say 'classified documents,' Mr. SYMINGTON, certainly I am not authorized to receive anything which would divulge the names of, we will say, informants, of Army Intelligence, anything which would in any way compromise their investigative technique, and that sort of thing. * * *" (p. 91 of the hearings).

"* * * no one can deny us information by stamping something 'classified'" (p. 92 of the hearings).

"Any committee which has jurisdiction over a subject has the right to receive the information. The stamp on the document, I would say, is not controlling * * *" (p. 92 of the hearings).

"* * * anyone who has evidence of wrongdoing, has not only the right but the duty to bring that evidence to a congressional committee" (p. 92 of the hearings).

That the Senator, at the hearings of the select committee, admitted making some of the foregoing statements charged against him (pp. 261–263 of the hearings), and did not deny having made the others. At these hearings, Senator MCCARTHY took an affirmative position relative to the following question of Senator ERVIN:

"Senator, when you made the statement which Mr. de Furia characterized as an invitation to the employees of the executive departments, did you mean to invite those employees to bring to you, as chairman of the investigating subcommittee, information relating to corruption, wrongdoing, communism, or treason in Government, even though such employees could find such information only in documents marked 'classified' by the department in which such employees were working?"

By Senator MCCARTHY, "Yes" (hearings, record, p. 417).

In addition to the foregoing which the committee believes to have been established, the select committee received the following additional evidence and testimony:

Senator MCCARTHY testified in his own behalf that—

"* * * I was not asking for general classified information. I was only asking for evidence of wrongdoing. I was asking these people to conform with the criminal code which requires they give that evidence" (p. 262 of the hearings).

"* * * When I invited them to give the chairman of that committee evidence of wrongdoing, I am inviting them not to violate their oath of office but to conform to their oath of office * * *" (pp. 263 and 264 of the hearings).

"I confined this information with regard to illegal activities on the part of Federal employees. It did not include general classified material * * * that as chairman of the Government Operations Committee and the investigation committee, if I did not try to get that information, then I should be subject to censure" (p. 265 of the hearings).

"* * * I feel very strongly that if someone in the executive knows of wrongdoing, of a crime being committed, and they do not bring it to someone who will act on it they are almost equally guilty * * * and let me emphasize again I am not asking for general classified information; I am merely asking for evidence of wrongdoing. I maintain that you cannot hide wrongdoing by using a rubber stamp, stamping 'Confidential,' 'Secret,' or 'Top Secret'—I don't care what classification they stamp upon it—as long as it is evidence of wrongdoing" (p. 266 of the hearings).

"I am referring here, obviously, to valid information" (p. 394 of the hearings).

The Senator contended that the following statutes permitted, even imposed a duty upon, Federal employees to give to him the information so requested:

Title V, United States Code, section 652 (d) (p. 264 of the hearings).

Title XVIII, United States Code, section 4 (p. 265 of the hearings).

Title XVIII, United States Code, section 798 (p. 395 of the hearings).

Senator MCCARTHY further stated that the position which he took was not new or unprecedented, but that the Vice President (then Congressman) NIXON, took a position much stronger, and the then Senator Hugo Black in 1934 took a similar position to the one presently taken by him (p. 267 of the hearings). He introduced into the record excerpts from a report of the Committee on the Judiciary, 1951, Subversive and Illegal Aliens in the United States, wherein the subcommittee invited the employees of the Immigration and Naturalization Service to report to the subcommittee laxity in enforcement of immigration laws or other matters affecting national security; and also parts of a report of the Internal Security Subcommittee, Interlocking Subversion in Government Departments, wherein Government workers were invited to supply information of subversion to the Federal Bureau of Investigation or the congressional committees (pp. 418 and 419 of the hearings).

B. Legal issues involved

The select committee believes that the charges in this category, and the evidence and testimony thereunder adduced, give rise to the following legal or quasi-legal question:

1. Whether Senator MCCARTHY openly invited, incited, and urged employees of the Government of the United States to report to him information coming to their attention without distinction to whether or not contained in a classified document; and thereby to violate (a) their oath of office, (b) the law of the United States, (c) Executive orders and directives.

Senator MCCARTHY contended at the hearings of the select committee, and by a brief submitted to the committee by his counsel, that he had not requested classified information, but only information relating to "graft, corruption, Communist infiltration, and espionage" and that such information "could not be insulated from exposure by a rubber stamp." He asserts that by statute (U. S. C., title V, sec. 652 (9)) Federal employees are not precluded from furnishing

such information to a Member of Congress; indeed, by virtue of United States Code, title XVIII, section 4, such employees have a duty to give such information. He further contends that, as chairman of the Committee on Government Operations, a duty is imposed upon him by the Senate itself to get such information, and that in seeking this information he was doing no more than had been done in the past by other Senators and senatorial committees.

The committee believes that from a reading of the entire section 652 of title V, it will appear that this portion of the Civil Service Act of 1912 does no more than affirm that Federal employees do not lose or forfeit any of their rights merely by virtue of their Federal employment. A study of title XVIII, section 4, by the committee leads it to the conclusion that it applies only to persons possessing actual personal knowledge of the actual commission of a felony, as distinguished from information obtained by reviewing files.

As to the alleged precedents of other Senators and senatorial committees, the committee has taken note of the statements contained in the reports of certain senatorial committees cited by Senator McCarthy, as expressing the official opinion of the members of such committees. The committee was of the opinion that any similar statements of other Senators are expressions of individuals and do not establish senatorial precedent unless confirmed by official action.

The charges contained in this category involve the right of the legislative branch of the Government to investigate the executive branch and to be informed of the operations of that branch. This committee believes that the principles, frequently enunciated by the Senate and its committees, sustaining the right of the Congress to be informed of all pertinent facts with respect to the operations of the executive branch should not be relaxed; and any contrary view is hereby disavowed. These principles certainly embrace information of wrongdoing in the executive branch of a general nonclassified nature, and the right of employees to inform the Congress of the same.

The precedents do show with certitude, however, that the Congress has the constitutional power to investigate activities in the executive branch to determine the advisability of enacting new laws directed to such activities, or to determine whether existing laws directed to such activities are being executed in accordance with the congressional intent. To these ends, the Congress may make investigations into allegedly corrupt or subversive activities in executive agencies or departments. The power to investigate such activities necessarily carries with it the power to receive information relating to such activities.

By the Reorganization Act of 1946, the Congress conferred upon the Senate Committee on Government Operations express authority to study "the operation of Government activities at all levels with a view to determining its economy and efficiency," and also that "Each such [standing] committee may make investigations into any matter within its jurisdiction."

In so doing, Congress delegated, in part, to the Senate Committee on Government Operations its constitutional power to make investigations into alleged corruption or subversion in executive agencies or departments. The Senate Committee on Government Operations elected to exercise this delegated power through its Permanent Subcommittee on Investigations, whose chairman was Senator McCarthy.

The committee is immediately concerned with the conduct of Senator McCarthy rather than with the conduct of employees of the executive branch. The President no doubt has power to safeguard from public dissemination by Executive order or otherwise, information affecting, for example, the national defense, notwithstanding that the regulations might indirectly interfere with any secret transmission line between the executive employees and any individual Member of the Congress. But the President, we think, cannot (nor do we believe he has sought by any order or directive called to our attention) deny to the Congress, or any duly organized committee or subcommittee thereof, and particularly the Committee on Government Operations of the Senate, any information, even though classified, if it discloses corruption or subversion in the executive branch.

This, we think, is true on the simple basis that the Congress is entitled to receive such information in the exercise of its investigatory power under the Constitution. The Congress, too, is charged with the responsibility for the welfare of the Nation.

What the executive branch may rightfully expect is that the coequal legislative branch, or its authorized committees, will inform the President, or his specially designated subordinate (ultimately the Attorney General) of the request, and that the desired information will be supplied subject to the protectives customarily thrown around classified documents by such committees.

In receiving such information, however, the Congress should refrain from thwarting or impeding the proper efforts of executive agencies, charged with duties incident to discovering, prosecuting, or punishing corruption or subversion in Government, or charged with safeguarding secrets involving the national defense.

However, the committee is equally of the view that the manner of approaching this important aspect of investigation in the light of the peculiar dangers of this hour, must be taken into account. The executive branch is initially peculiarly charged with inquiry into and suppression of insidious infiltrations of subversives into its own departments and agencies; this responsibility is a delicate and necessarily confidential one, because it involves the clearing of loyal personnel as well as the identification and elimination of disloyal employees. It also involves techniques of investigation which must be kept secret to be effective.

For this reason, there has been developed, under pressure of necessity, a system by which certain information, involving the national security, is protected in the executive branch by a machinery of classification, to insure that such information will remain confidential, as against unauthorized revelation or publication by employees, officers, or other agents of the executive branch.

If this system, which has expanded during recent years to keep step with the danger, were to be presented to the Congress as an iron curtain, denying to properly authorized agencies or persons (in which class the Congress and its committees are to be placed first) any right of access, a situation would be presented against which this committee would protest with all its power, as other committees have protested in the past. This we would regard as a challenge to the coequal powers of the legislative branch.

If, on the other hand, the Executive has recognized the prerogatives of the Congress, and incidentally other agencies of Government, even in the executive department itself, to be informed of classified material or information, by orderly and formal application to responsible heads of departments or to the Presidential office itself, then the committee believes another problem of orderly constitutional government may be presented, and that the Senate itself would be the first to respect the necessary right of the executive to protect its special functions, so long as the equally important powers of the legislative branch are not unduly impeded thereby.

We would be of the view that for the executive department, even the President himself, to deny to a properly constituted committee or subcommittee of the Senate, or any Senator operating with authority in the matter, facts involving wrongdoing in any executive department, might well offer a proper ground for challenging such decision, on the broadest and soundest constitutional grounds. But, by the same token, a failure of the Congress or any Member to adapt itself or himself to reasonable regulations by the President or his authorized department heads (for example, the Department of Defense or the Federal Bureau of Investigation), with respect to matters involving national security, might readily expose the Congress to an equally sound criticism.

In this connection, it is apparent that Congress itself, by specific legislation, has expressed an intent to protect documents relating to national security, and to prevent unauthorized disclosures of such information contained therein. At the same time, the executive branch, by departmental orders and Presidential directives ("not inconsistent with law") has expressed a cooperative attitude, by providing an orderly method of disclosing such information to proper authorities, including, of course, the Congress, in a reasonable prescribed manner, not harmful to the Nation's interest.

(For a further consideration and discussion of these authorities by this committee, reference is made to the legal discussion contained in pt. IV, category 3B of this report.)

If the invitation of Senator McCarthy to the Federal employees is more a solicitation of general information of wrongdoing, this committee would believe that he was within his senatorial prerogative, as there appears to be no law or Presidential order prohibiting employees of the Federal Government from giving such information to the Congress or members thereof. Indeed, there is law which affirmatively imposes a duty upon such employees to disclose to proper authorities any actual knowledge of the commission of a felony.

A more difficult legal question is presented if the invitation of the Senator goes beyond general information of wrongdoing, and includes within its scope classified information and documents, such as the 2½-page document and the information contained therein. The law hereinbefore mentioned and Presidential orders would seem to prevent the receipt or disclosure of such information or documents except through established orderly procedures.

The task of considering the allegations embodied in category I is a perplexing one because of the ambiguity of the statements made by Senator McCarthy as well as because of the difficulty of distinguishing between the constitutional power of the Congress to investigate the executive branch and the constitutional power of the President to withhold information from the Congress.

The statements of Senator McCarthy are susceptible of alternative constructions.

The first construction is that Senator McCarthy merely invited employees of the executive branch to bring to him as chairman of the Senate Committee on Government Operations and as chairman of its Permanent Subcommittee on Investigations, information acquired by them in the ordinary course of their employment having a logical tendency to disclose corrupt or subversive activities in governmental areas.

The second construction is that Senator McCarthy in effect urged employees of the executive branch to ransack confidential files of executive agencies or departments regardless of whether they had lawful access to those files, and bring to him classified documents the confidential retention of which in those files was necessary to enable the executive agencies charged with such duties

to discover, prevent, or bring to justice persons guilty of corrupt or subversive activities in governmental areas.

If his statements were susceptible of the second construction alone, Senator McCarthy might well merit the censure of the Senate upon the allegations embodied in category I for the conduct reflected by the second construction would evince an irresponsibility unworthy of any Senator and particularly of a Senator occupying the chairmanship of the Senate Committee on Government Operations and its Permanent Subcommittee on Investigations.

Since his statements admit of the alternative construction set out above, however, the select committee feels justified in giving Senator McCarthy the benefit of the first or more charitable construction.

In receiving information relating to corruption or subversion in the executive branch under the circumstances delineated in the first construction, that is, without irregular and possibly illegal use of classified documents, the chairman of the Senate Committee on Government Operations and of its Permanent Subcommittee on Investigations would be exercising the investigatory power vested in the Congress by the Constitution. This would be true even though employees of the executive branch should communicate such information to him in disobedience to Presidential orders.

The committee does not overlook the allegation that the statements of Senator McCarthy were tantamount to incitement to employees of the executive branch to violate the provisions of the Espionage Act embraced in 18 United States Code 793 (d) (e), which are couched in this language:

"(d) Whoever having lawful possession of * * * any * * * information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States * * *, willfully communicates * * * the same to any person not entitled to receive it * * * shall be fined not more than $10,000 or imprisoned not more than 10 years, or both.

"(e) Whoever having unauthorized possession of * * * any * * * information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States * * *, willfully communicates * * * the same to any person not entitled to receive it * * * shall be fined not more than $10,000 or imprisoned not more than 10 years, or both."

These statutory provisions do not define who is entitled to receive information relating to the national defense. Moreover, the code leaves to conjecture the question whether the definition embodied in 18 United States Code 798 (b) applies to 18 United States Code 793 (d) (e). Since it is a cardinal rule of statutory construction that statutes defining crimes are to be construed strictly against the Government and it does not appear that the chairman of the Senate Committee on Government Operations and its Permanent Subcommittee on Investigations is a "person not entitled to receive" information relating to the national defense, within the purview of 18 United States Code 793 (d) (e), the select committee is of the opinion that the statements of Senator McCarthy cannot assuredly be deemed, under all the facts before us, to constitute an incitement to employees of the executive branch to violate the provisions of the Espionage Act embraced in 18 United States Code 793 (d) (e).

C. Findings of the committee

After carefully considering, evaluating, and weighing the evidence and testimony presented at the hearings, and construing the applicable legal principles involved, the select committee is of the opinion—

1. That insofar as Senator McCarthy invited Federal employees to supply him with general information of wrongdoing, not of a classified nature, he was acting within his prerogative as a United States Senator and as head of an investigative arm of the United States Senate, and was not inviting such employees to violate their oath of office, Presidential orders, or any law.

2. That the invitation of Senator McCarthy, made during the hearings before the Special Subcommittee on Investigations of the Committee on Government Operations, and affirmed and reasserted at the hearings before the select committee, is susceptible to the interpretation that it was sufficiently broad by specific language and necessary implication to include information and documents properly classified by executive department heads as containing information affecting the national security.

3. However, the select committee is convinced that the invitation so made, affirmed, and reasserted by Senator McCarthy was motivated by a sense of official duty and not uttered as the fruit of evil design or wrongful intent.

4. That were the invitations as made, affirmed, and reasserted to be acted upon by the Federal employees, as to classified material affecting the national security, the orderly and constitutional functioning of the executive and legislative branches of the Government would be unduly disrupted and impeded, and this select committee warns such employees that such conduct involves the risk of effective penalties.

D. Conclusions

The select committee feels compelled to conclude that the conduct of Senator McCarthy in inviting Federal employees to supply him with information, without expressly excluding therefrom classified documents, tends to create a disruption of the orderly and constitutional functioning of the executive and legislative branches of the Government, which tends to bring both into disrepute. Such conduct cannot be condoned and is deemed improper.

However, the committee, preferring to give Senator McCarthy the benefit of whatever doubts and uncertainties may have confused the issue in the past, and in recognition of the Senator's responsibilities as chairman of the Committee on Government Operations and its Permanent Subcommittee on Investigations, does not feel justified in proposing his acts in this particular to the Senate as ground for censure.

The committee recommends that the leadership of the Senate endeavor to arrange a meeting of the chairman and the ranking minority members of the standing committees of the Senate with responsible departmental heads in the executive branch of the Government in an effort to clarify the mechanisms for obtaining such restricted information as Senate committees would find helpful in carrying out their duly authorized functions and responsibilities.

III. CATEGORY 3: INCIDENTS INVOLVING RECEIPT OR USE OF CONFIDENTIAL OR CLASSIFIED DOCUMENT OR OTHER CONFIDENTIAL INFORMATION FROM EXECUTIVE FILES

A. Summary of evidence

The evidence adduced before this committee relating to this charge was evolved from the testimony before the Special Subcommittee on Investigations for the Committee on Government Operations (Mundt committee), together with some testimony taken at hearings of this select committee.

The charge is based upon the specifications contained in amendment (d) proposed by Senator Morse (hearing record, p. 3) and amendment (13) proposed by Senator Flanders (hearing record, p. 6).

The charge or charges inherent in these specifications are—

1. That Senator McCarthy received and used confidential information unlawfully obtained from an executive department classified document, and failed to restore the document.

2. That in so doing he was in possible violation of the Espionage Act.

3. That he offered such information to a Senate subcommittee in the form of a spurious document.

The evidence supporting these charges was in part derived in documentary form from the record of the Mundt subcommittee hearings held in April, May, and June 1954, and in part oral testimony presented before the select committee.

It is the opinion of the select committee that competent, relevant, and material testimony has been submitted before the committee to support the charge that Senator McCarthy, before the Mundt subcommittee, produced what purported to be a copy of a letter from J. Edgar Hoover, Director of the Federal Bureau of Investigation, to Major General Bolling, Assistant Chief of Staff, G–2, Army, bearing the typed words "Personal and Confidential via Liaison," asserting it had been in the Army files (hearing records, pp. 95 and 96) and suggesting this was one of a series of letters from the FBI to the Army complaining "about the bad security setup at" the Fort Monmouth Signal Corps Laboratory, and giving information on certain individuals (hearing record, p. 96); that Mr. Hoover, after examining the "letter," which was dated January 26, 1951, declared that the "letter" was not a carbon copy or a copy of any communication prepared or sent by the FBI to General Bolling (hearing record, p. 99), but that "the letter" contained information identical in some respects with that contained in a 15-page interdepartmental memorandum from the FBI to General Bolling, of the Army, dated January 26, 1951, marked "Confidential via Liaison"; also that Mr. Hoover had stated that "confidential" was the highest classification that could be put on a document by the FBI (hearing record, p. 110). "It is also established that Senator McCarthy urged that the document, 2¼ pages in length, which he had received from an Army Intelligence officer be made available to the public" (hearing record, p. 111).

It is further established that Attorney General Brownell on May 13, 1954, advised Chairman Mundt by letter that the 2¼-page document was not authentic; that portions of the 2¼-page document which were taken verbatim from the 15-page interdepartmental memorandum are classified "confidential" by law; this means they must not be disclosed "in the best interests of the national security * * *. It would not be in the public interest to declassify the document or any part of it at the present time" (hearing record, p. 116). The Attorney General further stated that "if the 'confidential' classification of the FBI reports and memorandums is not respected, serious and irreparable harm will be done to the FBI" (hearing record, p. 116).

Despite the fact that the Attorney General had ruled that the document was a classified document, Senator McCarthy insisted that all security information had been deleted from it, and a request was made by his attorney as follows:

"Mr. Williams. I want to read it, sir, because there is no security information in it.

"The Chairman. Are you offering it in evidence?

"Mr. Williams. Yes" (p. 314 of the hearings).

But Senator McCarthy suggested that the names contained in the document be deleted (p. 326 of the hearings). This committee received the document into the possession of the chairman, without making public the contents (p. 327 of the hearings) upon the advice of the Attorney General that the document was a security document and could not be declassified (p. 327 of the hearings). This committee thereupon ruled that the 2¼-page document is a security document

and that the information contained in it should be kept classified (p. 328 of the hearings).

Clifford J. Nelson, of the Internal Security Division of the Department of Justice, testified that in January 1951 the word "confidential" was the only classification officially recognized by the FBI (p. 510 of the hearings); and that there was no regulation requiring any particular way of imprinting the classification designation on the document or paper (p. 511 of the hearings); and that it was not necessary for Government agencies "to go through their files and * * * declassify restricted information" when a new classification order was promulgated (p. 513 of the hearings).

Senator McCARTHY's position was that the names contained in the document were not security information (p. 389 of the hearings); he requested that, in accordance with the rule of his committee, the names be deleted if the document be made public, "unless * * * the individual named can appear * * * and answer the charges against him" (p. 389 of the hearings). His position also was that he had presented the document to the Mundt committee in good faith believing it was a copy of a letter in the Army files, it being self-evident that certain information had been deleted (pp. 397 and 417 of the hearings). Finally he insisted that the document and the information contained therein were not classified until Attorney General Brownell "classified it during the McCARTHY hearings"; and "that it was not classified from the time I received it until the time that Brownell either classified it or attempted to classify it" (p. 432 of the hearing); "It did not disclose any secrets of our national defense of any kind" (p. 433 of the hearings).

B. Legal issues involved

1. What were the statutes, Executive orders, and directives applicable to the 2¼-page letter or document?

2. Was the 2¼-page letter or document or the information therein classified?

3. Was it proper for Senator McCARTHY to attempt to make the 2¼-page letter or document public?

Congress has long recognized the need for providing legislation authorizing the heads of executive departments to make regulations relative to records and papers within their departments. As early as the act of June 22, 1874 (R. S., sec. 161, U. S. C., title 18, sec. 22), the Congress authorized the heads of executive departments to prescribe regulations not inconsistent with law controlling the conduct of its officers and clerks and the custody, use, and preservation of its records and papers.

This early act is cited by the Department of Justice Order No. 3229, filed May 2, 1946 (11 Fed. Reg. 4920, 18 Fed. Reg. 1368) protecting official files, documents, records, and information in the offices of the Department, including the Federal Bureau of Investigation, as "confidential," by providing that "no officer or employee may permit the disclosure or use of the same for any purpose except in the discretion of the Attorney General."

To the same effect, Presidential directive of March 13, 1948, 13 Federal Register 1359, which was apparently in effect in May and June 1953; and the subsequent Executive Order No. 10290 of September 24, 1951, setting up a system of classification "to the extent not inconsistent with law." The regulations promulgated by such order expressly apply only to classified security information, which term is restricted to official information which requires safeguarding in the interest of national security. It restricts the dissemination of classified information outside the executive branch, but authorizes the Attorney General on request to interpret such regulations in connection with any problem arising thereunder.

Of particular import is the Department of Justice order April 23, 1948, directed to the "Heads of All Government Departments, Agencies, and Commissions" (see testimony of Clifford J. Nelson, of the Department of Justice, hearing record, p. 512) providing as follows:

"As you are aware, the Federal Bureau of Investigation from time to time makes available to Government departments, agencies, and commissions information gathered by the Federal Bureau of Investigation which is of interest to such departments, agencies, or commissions. These reports and communications are confidential. All such reports and communications are the property of the Federal Bureau of Investigation and are subject at all times to its control and to all privileges which the Attorney General has as to the use or disclosure of documents of the Department of Justice. Any department, agency, or commission receiving such reports or communications is merely a custodian thereof for the Federal Bureau of Investigation, and the documents or communications are subject to recall at any time.

"Neither the reports and communications nor their contents may be disclosed to any outside person or source without specific prior approval of the Attorney General or of the Assistant to the Attorney General or an Assistant Attorney General acting for the Attorney General.

"Should any attempt be made, whether by request or subpena or motion for subpena or court order, or otherwise, to obtain access to or disclosure of any such report or communication, either separately or as a part of the files and records of a Government department, agency, or commission, and reports and communications involved should be immediately returned to the Federal Bureau of Investigation in order that a decision can be reached by me or by my designated representative in each individual instance as to the action which should be taken."

This order, providing that all reports and communications are confidential and shall remain the property of and in the control of the FBI, was effective in January of 1951.

Executive Order 10501, dated November 5, 1953, also undertakes to safeguard official information in the interest of national defense, and also commits to the Attorney General the interpreting of the regulations in connection with the problems arising out of their administration.

We mention in this connection the Espionage Act of June 25, 1948 (ch. 645, 62 Stat. 736; 18 U. S. C., secs. 793 (d) and (e); also ch. 645, 62 Stat. 736, 18 U. S. C. 792; also 18 U. S. C. sec. 4, ch. 645, 62 Stat. 684; also ch. 645, 62 Stat. 811, amended May 24, 1949, ch. 139, sec. 46, 69 Stat. 96, 18 U. S. C. 2387). (a) (1) (2) and (b) (cited in the brief of committee counsel, supplement to the record, p. 545 of hearing record) as showing a legislative intent to protect documents relating to national security, to prevent concealment of felonies; to forbid publications or disclosures not authorized by law by any officer or employee of the United States of information coming to him in the course of his employment or official duty.

These statutes are referred to here as affirmative evidence of congressional cooperation with the Executive, in a common effort to discourage unauthorized disclosures of confidential documents or information relating to the national defense, or obtained in the course of official duties; and to prevent interference with or impairment of the loyalty or discipline of the Armed Forces. All the cited statutes, Executive orders and directives are applicable to the 2¼-page letter or document.

In determining whether the letter or document was classified or contained classified information, reference must be made to the facts which have been established that the contents of this letter or document were taken from the 15-page interdepartmental memorandum dated January 15, 1951, from the FBI to the Army marked and classified confidential; that the letter or document in some respects contained identical language with that of the 15-page memorandum; and that Senator McCARTHY knew in May of 1953 when he acquired the 2¼-page letter or document that it had been in part extracted from a document containing security information and, therefore, a classified document. It must be admitted, and in fact was so admitted by Senator McCARTHY's counsel, that the material copied from a classified document retains the same classification as the document from which it is copied (hearing record, p. 753). It follows that the 2¼-page document retains the character of a classified document. While Senator McCARTHY contends that the deletion of certain information from the 2¼-page document renders it an unclassified document, this position overlooks the legal necessity that declassification can only be effected by a legally constituted authority. Furthermore, the Attorney General has formally ruled that the document still contains security information. The committee, after examining the document, likewise has agreed that the 2¼-page document contains security information.

Apart from these considerations, the established facts show that Senator McCARTHY attempted to make public over nationwide television the contents of a document which he believed emanated from the Federal Bureau of Investigation to the Intelligence Department of the Army regarding possible espionage in a defense installation and which bore a classified or confidential marking. This conduct on his part shows a disregard of the evident purpose to be served by such a document and overlooks the serious import which attaches to a document affecting the national defense, and the dangers flowing from causing such information to become public knowledge. This transgression is nonetheless grave even though the Senator personally may have been, as he contends, of the opinion that the document did not contain security information. This disposition on the part of Senator McCARTHY to determine for himself what is or is not security information regardless of the evident classified marking on a document, confirmed by the opinion of a duly constituted agency authorized to make such a ruling, evidences a lack of regard for responsibility to the laws and regulations providing for orderly determination of such matters. This conduct on the part of Senator McCARTHY is all the more serious when considered in the light of the act of June 25, 1948 (ch. 645, 62 Stat. 736, title 18, sec. 793 (d) and (e)) which provides that whoever having lawful or unauthorized possession of any document relating to national defense or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States, attempts to communicate the same to persons not entitled to receive it, is an offender against the criminal laws of the country.

We believe under the facts and our conception of the law that the 2¼-page document was a legally classified document entitled to the protection and respect legally surrounding such a document, and binding on all civil and military officers of the Government, as well as on all employees of the Government.

Such a conclusion is not inconsistent with the further view that representatives of the legislative branch have a complete legal right to obtain access to such documents by using the methods available to them to get such information by formal request to the classifying agency or to the Attorney General or to the President himself. It is only when such orderly methods are rebuffed that an issue between two coequal branches of the Government can or should develop.

It follows that any attempt to make public the contents or any portion of this 2¼-page document, affecting national security, would be a transgression upon authority. When Senator McCarthy offered to make public this document, which he knew involved information irregularly obtained and which on its face carried a classification of "confidential" by the FBI, it was an assumption of authority which itself is disruptive of orderly governmental processes, violative of accepted comity between the two great branches of our Government, the executive and legislative, and incompatible with the basic tenets of effective democracy.

C. Findings of the committee

1. During the hearings before the Permanent Subcommittee on Investigations of the Committee on Government Operations, Senator McCarthy, in the course of the development of his defense, offered to make public the contents of a document bearing the markings of the Federal Bureau of Investigation, "Personal and Confidential via Liaison," which contained classified information relating to the national defense. This offer was not accepted by the committee.

2. In offering to make the contents of the document public, Senator McCarthy acted in the bona fide belief that the document was a valid rather than a spurious instrument and offered it in evidence as such.

D. Conclusions

The committee concludes that in offering to make public the contents of this classified document Senator McCarthy committed grave error. He manifested a high degree of irresponsibility toward the purposes of the statutes and Executive directives prohibiting the disclosure to unauthorized persons of classified information or information relating to the national defense. He should have applied in advance to the Attorney General for express permission to use the document in his defense under adequate safeguards, or to the committee to receive its contents in evidence in an executive rather than an open session. The committee recognizes, however, that at the time in question Senator McCarthy was under the stress and strain of being tried or investigated by the subcommittee. He offered the document in this investigation, which was then being contested at every step by both sides. The contents of the document were relevant to the subject matter under inquiry, in our opinion.

These mitigating circumstances are such that we do not recommend censure on the specifications included in category III.

It is the opinion of this committee that it will not serve the necessary purposes of this inquiry to make public the 2¼-page document or any part of the contents thereof. If the committee had been of different opinion, the chairman would have been authorized, in light of the opinions of the Attorney General, still adhered to by the latter officer (p. 116 of the hearings), to direct a request to the President for authority to declassify the same. Pending the final action of the Senate in this matter, the committee has directed its chairman to retain physical possession of this document, in confidence. Unless the Senate otherwise directs, it will be surrendered to the Federal Bureau of Investigation for such disposition as shall be proper after the Senate has concluded its consideration of Senate Resolution 301.

IV. CATEGORY 4: INCIDENTS INVOLVING ABUSES OF COLLEAGUES IN THE SENATE

A. General discussion and summary of evidence

Pursuant to the category designated by the select committee, Incidents Involving Abuses of Colleagues in the Senate, it received evidence and took testimony relating to—

Amendment proposed by Mr. Flanders to the resolution (S. Res. 301) to censure the Senator from Wisconsin, Mr. McCarthy, viz:

"(30) He has ridiculed his colleagues in the Senate, defaming them publicly in vulgar and base language (regarding Senator Hendrickson—'a living miracle without brains or guts'; on Flanders—'Senile—I think they should get a man with a net and take him to a good quiet place')."

Amendment proposed by Mr. Morse to the resolution (S. Res. 301) to censure the Senator from Wisconsin, Mr. McCarthy, viz:

"(b) Unfairly accused his fellow Senators Gillette, Monroney, Hendrickson, Hayden, and Hennings of improper conduct in carrying out their duties as Senators."

The alleged abuses of senatorial colleagues, considered in this category, result from certain oral and written statements of Senator McCarthy directed by him to and about certain fellow Members of the Senate, and center around the following specific charges:

1. That Senator McCarthy publicly ridiculed and defamed Senator Hendrickson in vulgar and base language by calling him "* * * a living miracle without brains or guts."

2. That Senator McCarthy publicly ridiculed and defamed Senator Flanders in vulgar and base language by saying of him, "Senile—I think they should get a man with a net and take him to a good quiet place."

3. That Senator McCarthy unfairly accused Senators Gillette, Monroney, Hendrickson, Hayden, and Hennings of improper conduct in carrying out their senatorial duties.

As relating to this category, the select committee received documentary evidence in the form of correspondence between Senator McCarthy and the Subcommittee on Privileges and Elections, testimony taken before and published by the Permanent Subcommittee on Investigations of the Committee on Government Operations, being part of the Army-McCarthy hearings, the testimony of two reporters, certain other record evidence, and the testimony of Senator McCarthy in his own behalf.

We point out that for convenience, and by reason of related subject matter, the select committee has already considered and disposed of two of the charges contained in this category, being the charge that Senator McCarthy publicly ridiculed and defamed Senator Hendrickson in vulgar and base language, being No. 1 above-mentioned, and the charge that Senator McCarthy unfairly accused Senators Gillette, Monroney, Hendrickson, Hayden, and Hennings of improper conduct in carrying out their senatorial duties, being No. 3 above-mentioned. These two charges have already been considered and reported upon in this report under I—"Incidents of Contempt of the Senate or a Senatorial Committee." The discussion under this category IV, therefore, will be restricted to the one charge contained in the amendment proposed by Senator Flanders (30), that Senator McCarthy publicly ridiculed and defamed Senator Flanders, in vulgar and base language, by calling him "senile."

The evidence shows that on June 11, 1954, Senator Flanders walked into the Senate caucus room where Senator McCarthy was testifying before a vast television audience in the Army-McCarthy hearings, and unexpectedly gave Senator McCarthy notice of an intended speech attacking Senator McCarthy which he proposed forthwith to deliver on the Senate floor; that shortly thereafter Senator McCarthy was asked by the press to comment on Senator Flanders' intended speech; that Senator McCarthy thereupon made this remark concerning Senator Flanders:

"I think they should get a man with a net and take him to a good quiet place";

and that on occasions prior to that time Senator Flanders made provocative speeches in respect to Senator McCarthy on the Senate floor.

B. Conclusions

The remarks of Senator McCarthy concerning Senator Flanders were highly improper. The committee finds, however, that they were induced by Senator Flanders' conduct in respect to Senator McCarthy in the Senate caucus room, and in delivering provocative speeches concerning Senator McCarthy on the Senate floor. For these reasons, the committee concludes the remarks with reference to Senator Flanders do not constitute a basis for censure.

V. CATEGORY 5: INCIDENT RELATING TO RALPH W. ZWICKER, A GENERAL OFFICER OF THE ARMY OF THE UNITED STATES

A. General discussion and summary of evidence

This category refers to the question whether Senator McCarthy should be censured for his treatment of Gen. Ralph W. Zwicker, in connection with General Zwicker's appearance before the Senator as a witness.

The pertinent proposed amendments are that of Senator Fulbright:

"(4) Without justification, the junior Senator from Wisconsin impugned the loyalty, patriotism, and character of Gen. Ralph Zwicker."

And that of Senator Morse:

"(c) As chairman of a committee, resorted to abusive conduct in his interrogation of Gen. Ralph Zwicker, including a charge that General Zwicker was unfit to wear the uniform, during the appearance of General Zwicker as a witness before the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations on February 18, 1954."

And that of Senator Flanders:

"(10) He has attacked, defamed, and besmirched military heroes of the United States, either as witnesses before his committee or under the cloak of immunity of the Senate floor" (General Zwicker, General Marshall).

The select committee restricted its hearings to the case of General Zwicker. Its reasons for not inquiring into the case of remarks made against General Marshall appear in part VI of this report.

In his capacity as chairman of the Permanent Subcommittee on Investigations, Senator McCarthy held hearings to determine whether there were espionage activities in the radar laboratory at Fort Monmouth. General Zwicker was summoned as a witness and appeared on February 18, 1954, at a hearing held in New York, N. Y.

The evidence on this phase consisted of the records of both a public and executive hearing, the testimony of William J. Harding, Jr., who was a spectator at the public hearing, the testimony of Senator McCarthy, and of General Zwicker, the testimony of Gen. Kirke B. Lawton, and of Capt. William J. Woodward, a medical officer who accompanied General Zwicker to the hearings, and of James M. Juliana and C. George Anastos, of the staff of the Permanent Subcommittee on Investigations.

There is no dispute concerning the reported testimony of General Zwicker and the questions, statements, and comments of Senator McCarthy during the hearings. General Zwicker attended a public hearing, as a spectator, in the morning of February 18, 1954, and testified as a witness at an executive session late that afternoon. There is dispute as to the attitude and truthfulness of General Zwicker, the statements made to and about him by Senator McCarthy at the conclusion of the executive session, and concerning alleged utterances of General Zwicker prior to his testimony.

Gen. Kirke B. Lawton testified to a conversation which he had with General Zwicker at Camp Kilmer sometime before General Zwicker was called as a witness. It was charged that General Lawton was "gagged" by his military superiors, but after General Lawton testified, it became clear that his inability to give details of his conversation with General Zwicker was not the result of any military secrecy order but was the result of his inability to remember any of the details of the conversation. General Lawton testified that General Zwicker gave him the impression of being generally opposed to Senator McCARTHY or the Senator's method in investigation. He could not remember any words used by General Zwicker but was permitted to testify to his general impression and conclusion as to the effect of General Zwicker's remarks.

William J. Harding, Jr., who was a spectator at the morning public session of the hearing held by Senator McCARTHY in New York on February 18, 1954, testified that he was seated near General Zwicker. In the morning session General Zwicker also was a spectator. Mr. Harding stated that Senator McCARTHY addressed a question to General Zwicker, who was then seated in the audience, and that General Zwicker replied to the question. As General Zwicker seated himself, after replying to the Senator's question, Mr. Harding testified that the general muttered under his breath the letters "s. o. b." with reference to Senator McCARTHY.

James M. Juliana and C. George Anastos, members of the staff of the Permanent Subcommittee on Investigations, were called as witnesses by the select committee. Mr. Juliana testified that he saw General Zwicker at Camp Kilmer on February 13, 1954, 5 days before the appearance of General Zwicker as a witness before Senator McCARTHY in New York. On February 13, 1954, Mr. Juliana received from General Zwicker a copy of the Army order directing the honorable discharge of Maj. Irving Peress. In the New York hearing Senator McCARTHY tried to establish who was responsible for the advancement of Peress from captain to major and who was responsible for his separation and discharge from the military service, the latter having occurred after he had claimed the protection of the fifth amendment as to his Communist connections and activities at a hearing before Senator McCARTHY. (The separation order was read into the record at these hearings before the select committee.) Mr. Juliana also testified that his copy of the Peress separation order was produced at the hearing of February 18, 1954, and handed by him either to Senator McCARTHY or to Roy M. Cohn, counsel for the subcommittee.

Under examination by counsel for Senator McCARTHY, Mr. Juliana stated that when he talked to General Zwicker, General Zwicker said that he had been in contact with Washington prior to discharging Major Peress on February 2, 1954, relative to the Peress matter, and that he, Mr. Juliana, had so informed Senator McCARTHY prior to February 18, 1954.

C. George Anastos testified that he talked with General Zwicker about the Peress case by telephone on January 22, 1954. General Zwicker gave him the name of Peress, and stated that the file showed there was information that Peress and his wife was or had been a Communist, and that in August 1953 Peress had refused to answer a loyalty questionnaire. There was reference made also, according to Mr. Anastos, to an Army effort to get Peress out of the service. This testimony is in contrast with that of General Zwicker that he did not give to Mr. Anastos any information contained in the Peress classified personnel file. The next day, according to Mr. Anastos, General Zwicker called him voluntarily and told him of the Peress separation order.

Major Peress was examined by Chairman McCARTHY on January 30, 1954. He had been promoted on November 2, 1953. He received an honorable discharge on February 2, 1954.

It was the contention of Senator McCARTHY that General Zwicker was most arrogant, very irritating, and evasive, that he was untruthful in his testimony, and that he was "covering up" for his superiors. General Zwicker stood upon his testimony and contended that he had been truthful in all respects and as frank as he could be in view of the military restrictions upon his testimony. General Zwicker also contended that Senator McCARTHY had full knowledge of General Zwicker's attitude and conduct with reference to the Peress case, and that this made Senator McCARTHY's treatment of him unjustified and unwarranted. General Zwicker appeared as a witness at the invitation of the select committee.

B. Findings of fact

From the evidence and testimony taken with reference to this fifth category, the select committee finds the following facts:

1. In connection with this incident, Senator McCARTHY was acting as chairman of the Senate Committee on Government Operations and chairman of its Permanent Subcommittee on Investigation (pp. 69 and 182 of the hearings).

2. Ralph W. Zwicker is a brigadier general of the Army of the United States, a graduate of West Point Military Academy, and an Army officer since 1927 (p. 80 of the hearings).

3. From July 1953 to August 1954, General Zwicker was the commanding officer at Camp Kilmer, an Army separation center (pp. 70 and 81 of the hearings).

4. Senator McCARTHY began looking into the Peress matter in November 1953 (p. 182 of the hearings).

5. In late November or December 1953, General Zwicker had a conversation with Gen. Kirke B. Lawton, and gave General Lawton the impression that he was antagonistic toward Senator McCARTHY (p. 438 of the hearings).

6. On January 22, 1954, C. George Anastos, a member of the staff of the Permanent Subcommittee on Investigations, talked to General Zwicker by telephone; the general gave him the name of Peress and made some reference to the latter's Communist connections (p. 519 of the hearings).

7. This information was reported to Roy Cohn and Frank Carr of the subcommittee staff (p. 519 of the hearings).

8. On February 13, 1954, General Zwicker talked to James C. Juliana, another member of the subcommittee's staff, and gave to Mr. Juliana a copy of the Peress separation order (p. 515 of the hearings).

9. This copy was available to Senator McCARTHY at the New York hearing of February 18, 1954 (pp. 79, 515, and 516 of the hearings).

10. On the same date, General Zwicker also told Mr. Juliana that he was opposed to giving Peress an honorable discharge and had been in touch with Washington about the matter (p. 517 of the hearings).

11. This was reported by Mr. Juliana to Senator McCARTHY some days before February 18, 1954 (pp. 188, 189, 333, and 517 of the hearings).

12. Major Peress was summoned to appear before the permanent subcommittee by request made on January 26, 1954, and appeared on January 30, 1954 (p. 183 of the hearings).

13. Senator McCARTHY and General Zwicker met for the first time on February 18, 1954 (p. 330 of the hearings).

14. They had a pleasant social conversation during the lunch intermission (p. 456 of the hearings).

15. There was a public hearing during the morning of February 18, 1954, attended by General Zwicker as a spectator (p. 455 of the hearings).

16. During this morning session, William J. Harding, Jr., testified, after General Zwicker had answered a question of Senator McCARTHY, that he heard General Zwicker mutter under his breath, "You s. o. b.," and (turning to his companions) said, "You see. I told you what we'd get" (p. 179 of the hearings).

17. General Zwicker testified he had no recollection of and knew of no reason for making such an utterance (p. 456 of the hearings).

18. Senator McCARTHY did not know of the Harding incident when he examined General Zwicker (p. 204 of the hearings).

19. General Zwicker was called as a witness at an executive session before Senator McCARTHY, sitting as a subcommittee of one, about 4:30 p. m. on February 18, 1954 (pp. 69 and 190 of the hearings).

20. At the beginning of the hearing, under examination by Mr. Cohn, General Zwicker testified that if he were in a position to do so, that he would be glad to tell what steps he took "and others took at Kilmer to take action against Peress a long time before action was finally forced by the committee," and that the information would not reflect unfavorably on General Zwicker or "on a number of other people at Kilmer and the First Army" (p. 70 of the hearings).

21. Senator McCARTHY then took over the examination of General Zwicker in an effort to bring out that the general's information, if given in evidence, "would reflect unfavorably on some of them, of course" (p. 70 of the hearings).

22. Senator McCARTHY then ordered the witness to reply to the question whether somebody kept Peress on, knowing he was a Communist, and General Zwicker responded that he respectfully declined to answer since he was not permitted to do so under the Presidential directive (p. 70 of the hearings).

23. General Zwicker tried unsuccessfully to have this Presidential directive read at the hearing before Senator McCARTHY (p. 354 of the hearings).

24. Senator McCARTHY stated that he was familiar with the provisions of the Presidential directive (p. 354 of the hearings).

25. The Presidential directive of March 13, 1948, provided "in order to insure the fair and just disposition of loyalty cases * * * reports rendered by the Federal Bureau of Investigation and other investigative agencies of the executive branch are to be regarded as confidential * * * and files relative to the loyalty of employees * * * shall be maintained in confidence * * *.—Harry S. Truman" (p. 457 of the hearings).

26. Senator McCARTHY then asked General Zwicker whether he knew on the day an honorable discharge was signed for Peress that Peress had refused to answer certain questions before the subcommittee, and General Zwicker replied: "No, sir; not specifically on answering any questions. I knew he had appeared before your committee" (p. 70 of the hearings).

27. When asked whether he "knew generally that he (Peress) had refused to tell whether he was a Communist," General Zwicker replied: "I don't recall whether he refused to tell whether he was a Communist" (p. 71 of the hearings).

28. General Zwicker testified that he had read the press releases about Peress, and knew that Peress had taken refuge in the fifth amendment, but that he did not know specifically that Peress had refused to answer questions about his Communist activities (p. 71 of the hearings).

29. Senator McCARTHY then told the witness: "General, let's try and be truthful. I am going to keep you here as long as you keep

hedging and hemming" (p. 71 of the hearings).

30. The following then occurred:

"General ZWICKER. I am not hedging.

"The CHAIRMAN. Or hawing.

"General ZWICKER. I am not hawing, and I don't like to have anyone impugn my honesty, which you just about did.

"The CHAIRMAN. Either your honesty or your intelligence; I can't help impugning one or the other, when you tell us that a major in your command who was known to you to have been before a Senate committee, and of whom you read the press releases very carefully—to now have you sit here and tell us that you did not know whether he refused to answer questions about Communist activities. I had seen all the press releases, and they all dealt with that. So when you do that, General, if you will pardon me, I cannot help but question either your honesty or your intelligence, one or the other. I want to be frank with you on that.

"Now is it your testimony now that at the time you read the stories about Major Peress, that you did not know that he had refused to answer questions before this committee about his Communist activities?

"General ZWICKER. I am sure I had that impression.

"The CHAIRMAN. Were you aware that the major was being given an honorable discharge * * *.

"The CHAIRMAN. Did you also read the stories about my letter to Secretary of the Army Stevens in which I requested or, rather, suggested that this man be court-martialed, and that anyone that protected him or covered up for him be court-martialed?

"General ZWICKER. Yes, sir" (pp. 71 and 72 of the hearings).

31. As to the Peress discharge, General Zwicker testified:

"The CHAIRMAN. Who ordered his discharge?

"General ZWICKER. The Department of the Army.

"The CHAIRMAN. Who in the Department?

"General ZWICKER. That I can't answer.

"Mr. COHN. That isn't a security matter?

"General ZWICKER. No. I don't know. Excuse me.

"Mr. COHN. Who did you talk to? You talked to somebody?

"General ZWICKER. No; I did not.

"Mr. COHN. How did you know he should be discharged?

"General ZWICKER. You also have a copy of this. I don't know why you asked me for it. This is the order under which he was discharged, a copy of that order."

And also:

"The CHAIRMAN. Did you take any steps to have him retained until the Secretary of the Army could decide whether he should be court-martialed?

"General ZWICKER. No, sir.

"The CHAIRMAN. Did it occur to you that you should?

"General ZWICKER. No, sir.

"The CHAIRMAN. Could you have taken such steps?

"General ZWICKER. No, sir.

"The CHAIRMAN. In other words, there is nothing you could have done, is that your statement?

"General ZWICKER. That is my opinion" (p. 72 of the hearings).

32. The Peress discharge order was dated January 18, 1954, was received by General Zwicker on January 23, 1954, and provided:

(a) That Peress be relieved from active duty and honorably discharged.

(b) That this be at the desire of Peress "but in any event not later than 90 days from date of receipt of this letter" (p. 454 of the hearings).

33. Major Peress asked for his discharge on February 1, 1954, and he was discharged the next day (p. 483 of the hearings).

34. Senator MCCARTHY had read the Peress discharge order, and knew about it on February 2, 1954 (pp. 199 and 333 of the hearings).

35. Senator MCCARTHY then examined General Zwicker as follows:

"The CHAIRMAN. Let me ask this question. If this man, after the order came up, after the order of the 18th came up, prior to his getting an honorable discharge, were guilty of some crime—let us say that he held up a bank or stole an automobile—and you heard of that the day before—let's say you heard of it the same day that you heard of my letter—could you then have taken steps to prevent his discharge, or would he have automatically been discharged?

"General ZWICKER. I would have definitely taken steps to prevent discharge.

"The CHAIRMAN. In other words, if you found that he was guilty of improper conduct, conduct unbecoming an officer, we will say, then you would not have allowed the honorable discharge to go through, would you?

"General ZWICKER. If it were outside the directive of this order?

"The CHAIRMAN. Well, yes; let's say it were outside the directive.

"General ZWICKER. Then I certainly would never have discharged him until that part of the case——

"The CHAIRMAN. Let us say he went out and stole $50 the night before.

"General ZWICKER. He wouldn't have been discharged.

"The CHAIRMAN. Do you think stealing $50 is more serious than being a traitor to the country as part of the Communist conspiracy?

"General ZWICKER. That, sir, was not my decision.

"The CHAIRMAN. You said if you learned that he stole $50, you would have prevented his discharge. You did learn something much more serious than that. You learned that he had refused to tell whether he was a Communist. You learned that the chairman of a Senate committee suggested that he be court-martialed. And you say if he had stolen $50 he would not have gotten the honorable discharge. But merely being a part of the Communist conspiracy, and the chairman of the committee asking that he be court-martialed, would not give you grounds for holding up his discharge. Is that correct?

"General ZWICKER. Under the terms of this letter, that is correct, Mr. Chairman.

"The CHAIRMAN. That letter says nothing about stealing $50, and it does not say anything about being a Communist. It does not say anything about his appearance before our committee. He appeared before our committee after that order was made out.

"Do you think you sound a bit ridiculous, General, when you say that for $50, you would prevent his being discharged, but for being a part of the conspiracy to destroy this country you could not prevent his discharge?

"General ZWICKER. I did not say that, sir.

"The CHAIRMAN. Let's go over that. You did say if you found out he stole $50 the night before, he would not have gotten an honorable discharge the next morning?

"General ZWICKER. That is correct.

"The CHAIRMAN. You did learn, did you not, from the newspaper reports, that this man was part of the Communist conspiracy, or at least that there was strong evidence that he was. Didn't you think that was more serious than the theft of $50?

"General ZWICKER. He has never been tried for that, sir, and there was evidence, Mr. Chairman——

"The CHAIRMAN. Don't you give me that doubletalk. The $50 case, that he had stolen the night before, he has not been tried for that.

"General ZWICKER. That is correct. He didn't steal it yet.

"The CHAIRMAN. Would you wait until he was tried for stealing the $50 before you prevented the honorable discharge?

"General ZWICKER. Either tried or exonerated.

"The CHAIRMAN. You would hold up the discharge until he was tried or exonerated?

"General ZWICKER. For stealing the $50; yes.

"The CHAIRMAN. But if you heard that this man was a traitor—in other words, instead of hearing that he had stolen $50 from the corner store, let's say you heard that he was a traitor, he belonged to the Communist conspiracy; that a Senate committee had the sworn testimony to that effect. Then would you hold up his discharge until he was either exonerated or tried?

"General ZWICKER. I am not going to answer that question, I don't believe, the way you want it, sir.

"The CHAIRMAN. I just want you to tell me the truth.

"General ZWICKER. On all of the evidence or anything that had been presented to me as commanding general of Camp Kilmer, I had no authority to retain him in the service."

And also:

"The CHAIRMAN. You say that if you had heard that he had stolen $50, then you could order him retained. But when you heard that he was part of the Communist conspiracy, that subsequent to the time the orders were issued a Senate committee took the evidence under oath that he was part of the conspiracy, you say that would not allow you to hold up his discharge?

"General ZWICKER. I was never officially informed by anyone that he was part of the Communist conspiracy, Mr. Senator.

"The CHAIRMAN. Well, let's see now. You say that you were never officially informed?

"General ZWICKER. No.

"The CHAIRMAN. If you heard that he had stolen $50 from someone down the street, if you did not hear it officially, then could you hold up his discharge? Or is there some peculiar way you must hear it?

"General ZWICKER. I believe so, yes, sir, until I was satisfied that he had or hadn't, one way or the other.

"The CHAIRMAN. You would not need any official notification so far as the 50 bucks is concerned?

"General ZWICKER. Yes.

"The CHAIRMAN. But you say insofar as the Communist conspiracy is concerned, you need an official notification?

"General ZWICKER. Yes, sir; because I was acting on an official order, having precedence over that?

"The CHAIRMAN. How about the $50? If one of your men came in a half hour before he got his honorable discharge and said, 'General, I just heard downtown from a police officer that this man broke into a store last night and stole $50,' you would not give him an honorable discharge until you had checked the case and found out whether that was true or not; would you?

"General ZWICKER. I would expect the authorities from downtown to inform me of that or, let's say, someone in a position to suspect that he did it.

"The CHAIRMAN. Let's say one of the trusted privates in your command came in to you and said, 'General, I was just downtown and I have evidence that Major Peress broke into a store and stole $50.' You wouldn't discharge him until you had checked the facts, seen whether or not the private was telling the truth, and seen whether or not he had stolen the $50?

"General ZWICKER. No; I don't believe I would. I would make a check, certainly, to check the story" (pp. 73–74 of the hearings).

36. The examination then proceeded on a further hypothetical basis as follows:

"The CHAIRMAN. Do you think, General, that anyone who is responsible for giving an honorable discharge to a man who has been

named under oath as a member of the Communist conspiracy should himself be removed from the military?

"General ZWICKER. You are speaking of generalities now, and not on specifics; is that right, sir, not mentioning about any one particular person?

"The CHAIRMAN. That is right.

"General ZWICKER. I have no brief for that kind of person, and if there exists or has existed something in the system that permits that, I say that that is wrong.

"The CHAIRMAN. I am not talking about the system. I am asking you this question, General, a very simple question: Let's assume that John Jones, who is a major in the United States Army——

"General ZWICKER. A what, sir?

"The CHAIRMAN. Let's assume that John Jones is a major in the United States Army. Let's assume that there is sworn testimony to the effect that he is part of the Communist conspiracy, has attended Communist leadership schools. Let's assume that Maj. John Jones is under oath before a committee and says, 'I cannot tell you the truth about these charges because, if I did, I fear that might tend to incriminate me.' Then let's say that General Smith was responsible for this man receiving an honorable discharge, knowing these facts. Do you think that General Smith should be removed from the military, or do you think he should be kept on in it?

"General ZWICKER. He should be by all means kept if he were acting under competent orders to separate that man.

"The CHAIRMAN. Let us say he is the man who signed the orders. Let us say General Smith is the man who originated the order.

"General ZWICKER. Originated the order directing his separation?

"The CHAIRMAN. Directing his honorable discharge.

"General ZWICKER. Well, that is pretty hypothetical.

"The CHAIRMAN. It is pretty real, General.

"General ZWICKER. Sir, on one point; yes. I mean on an individual; yes. But you know that there are thousands and thousands of people being separated daily from our Army.

"The CHAIRMAN. General, you understand my question——

"General ZWICKER. Maybe not.

"The CHAIRMAN. And you are going to answer it.

"General ZWICKER. Repeat it.

"The CHAIRMAN. The reporter will repeat it.

"(The question referred to was read by the reporter.)

"General ZWICKER. That is not a question for me to decide, Senator.

"The CHAIRMAN. You are ordered to answer it, General. You are an employee of the people.

"General ZWICKER. Yes, sir.

"The CHAIRMAN. You have a rather important job. I want to know how you feel about getting rid of Communists.

"General ZWICKER. I am all for it.

"The CHAIRMAN. All right. You will answer that question, unless you take the fifth amendment. I do not care how long we stay here, you are going to answer it.

"General ZWICKER. Do you mean how I feel toward Communists?

"The CHAIRMAN. I mean exactly what I asked you, General; nothing else. And anyone with the brains of a 5-year-old child can understand that question.

"The reporter will read it to you as often as you need to hear it so that you can answer it, and then you will answer it.

"General ZWICKER. Start it over, please.

"(The question was reread by the reporter.)

"General ZWICKER. I do not think he should be removed from the military.

"The CHAIRMAN. Then, General, you should be removed from any command. Any man who has been given the honor of being promoted to general and who says 'I will protect another general who protected Communists,' is not fit to wear that uniform, General. I think it is a tremendous disgrace to the Army to have this sort of thing given to the public. I intend to give it to them. I have a duty to do that. I intend to repeat to the press exactly what you said. So you know that. You will be back here, General" (pp. 75 and 76 of the hearings).

"37. At page 77 of the hearings, the following occurred:

"The CHAIRMAN. Did you at any time ever object to this man being honorably discharged?

"General ZWICKER. I respectfully decline to answer that, sir.

"The CHAIRMAN. You will be ordered to answer it.

"General ZWICKER. That is on the grounds of this Executive order.

"The CHAIRMAN. You are ordered to answer. That is a personnel matter.

"General ZWICKER. I shall still respectfully decline to answer it.

"The CHAIRMAN. Did you ever take any steps which would have aided him in continuing in the military after you knew that he was a Communist?

"General ZWICKER. That would have aided him in continuing, sir?

"The CHAIRMAN. Yes.

"General ZWICKER. No.

"The CHAIRMAN. Did you ever do anything instrumental in his obtaining his promotion after knowing that he was a fifth-amendment case?

"General ZWICKER. No, sir.

"The CHAIRMAN. Did you ever object to his being promoted?

"General ZWICKER. I had no opportunity to, sir.

"The CHAIRMAN. Did you ever enter any objection to promotion of this man under your command?

"General ZWICKER. I have no opportunity to do that.

"The CHAIRMAN. You say you did not; is that correct?

"General ZWICKER. That is correct.

"The CHAIRMAN. And you refuse to tell us whether you objected to his obtaining an honorable discharge?

"General ZWICKER. I don't believe that is quite the way the question was phrased before.

"The CHAIRMAN. Well, answer it again, then.

"General ZWICKER. I respectfully request that I not answer that question.

"The CHAIRMAN. You will be ordered to answer.

"General ZWICKER. Under the same authority as cited before, I cannot answer it."

38. At the hearings before the select committee, Senator MCCARTHY testified that General Zwicker was evasive (p. 193 of the hearings), that he changed his story (p. 192 of the hearings), that he was difficult to examine (p. 192 of the hearings), that it was "a long, laborious, truth-pulling job," and that he was "most arrogant" (pp. 193 and 204 of the hearings).

39. As stated by the chairman and other members of the select committee, these were matters of argument (p. 195 of the hearings).

40. The transcript of the New York hearing shows that Senator MCCARTHY said to General Zwicker: "Then, General, you should be removed from any command. Any man who has been given the honor of being promoted to general and who says, 'I will protect another general who protected Communists,' is not fit to wear that uniform, General," and Senator MCCARTHY testified he was referring to the uniform of a general (pp. 202 and 332 of the hearings).

41. General Zwicker did not make any such statement.

42. Senator MCCARTHY testified that General Zwicker had said, in effect, "It is all right to give Communists honorable discharges" (p. 202 of the hearings).

43. There is no testimony in this record which justifies such a conclusion.

44. When asked to give the facts on which he based his testimony that General Zwicker was an unwilling witness, arrogant and evasive, Senator MCCARTHY reiterated his conclusion that: "All I can say is, the full attitude was one of complete arrogance, complete contempt of the committee" (p. 204 of the hearings).

45. Senator MCCARTHY testified that he was justified in his treatment of General Zwicker solely by the latter's conduct at the hearing in New York (p. 330 of the hearings).

46. He testified further that he had not criticized General Zwicker and it was: "just a method of cross-examination, trying to get the truth" (p. 331 of the hearings).

47. Senator MCCARTHY refused to draw any inference but that General Zwicker was not telling the truth (specifically excluding perjury, p. 337 of the hearings), as follows:

"Mr. DE FURIA. Now, assuming, Senator, that for the sake of this question, anyhow, that General Zwicker did testify in what we might call a stilted fashion, don't you think that the fair inference, rather than to say that the general was deliberately telling an untruth, or stalling, or distorting facts, that the fair, judicious inference was that he couldn't do very much else in the face of the Presidential orders and the other orders of his superiors, isn't that the fair way to look at it, Senator?

"Senator MCCARTHY. No, Mr. de Furia. When a general comes before me first says, 'I didn't know this man refused to answer any questions,' then after he is pressed under cross-examination, he says, 'Yes, I knew he refused to answer questions, but I didn't know he refused to answer questions about Communist activities'—then, after further cross-examination, he says, 'Yes, I know that he refused to answer questions about Communist activities'—I can't assume that is the result of any Presidential directive. We cannot blame the President for that."

48. Before examining General Zwicker, Senator MCCARTHY knew that General Zwicker was opposed to giving Peress an honorable discharge (p. 342 of the hearings) and Senator MCCARTHY had received a long letter from the Secretary of the Army giving a full explanation of the Peress case (pp. 459 and 462 of the hearings).

49. Senator MCCARTHY contended at the hearings before the select committee that matters in the Peress personnel file could be revealed by General Zwicker (p. 344 of the hearings) and that General Zwicker was not relying on any Presidential order (p. 344 of the hearings).

50. Later, Senator MCCARTHY testified that General Zwicker was relying on Presidential and Executive orders, and that he, Senator MCCARTHY, had copies of them (pp. 347 and 354 of the hearings).

51. Immediately after General Zwicker had testified in New York, Senator MCCARTHY gave to the press his version of what had occurred at the executive hearing (p. 348 of the hearings).

52. Senator MCCARTHY could not recall whether he told the press that the Zwicker hearing had been held principally for the benefit of the Secretary of the Army Stevens, did not think so, was reasonably certain he had not said so (p. 348 of the hearings).

53. On his right to reveal to the press what had been testified to at the Zwicker executive hearing, Senator MCCARTHY testified:

"Mr. DE FURIA. Senator, were you authorized by either the major committee or your Subcommittee on Permanent Investigations to reveal what transpired at the Zwicker executive hearing?

"Senator MCCARTHY. I discussed the matter with the representatives of the two Senators who were present and we agreed, in view of

the Stevens' statement, it should be released.

"Mr. DE FURIA. You say you discussed it with the representatives of the two Senators?

"Senator MCCARTHY. That is correct.

"Mr. DE FURIA. In spite of the rules of your own committee that all testimony taken in executive session shall be kept secret and will not be released or used in public session without the approval of the majority of the subcommittee?

"Senator MCCARTHY. I felt that the two men who were present were representing the Senators and they constituted a majority. There were only four Senators on the committee at that time.

"Mr. DE FURIA. In a matter involving a general of the United States, then, you permitted an administrative assistant to exercise the prerogatives of the United States Senate?

"Senator MCCARTHY. I think I have recited the facts to you" (pp. 349 and 350 of the hearings).

And also:

"Senator MCCARTHY. May I say further, Mr. de Furia, in answer to your question, that General Zwicker had already released a distorted version of the testimony, through Bob Stevens, in affidavit form. I felt under the circumstances that the correct version should be released.

"Mr. DE FURIA. Why, Senator, you released this first 2 or 3 minutes after your hearing concluded, did you not?

"Senator MCCARTHY. No; I did not. It was the transcript.

"Mr. DE FURIA. You called in the press, did you not, right away?

"Senator MCCARTHY. I did not.

"Mr. DE FURIA. To tell them what had happened in the executive session?

"Senator MCCARTHY. Mr. de Furia, if you want to know what the practice was here, and what the practice is——

"Mr. DE FURIA. I do not want the practice.

"Senator MCCARTHY. I did not release the transcript.

"Mr. DE FURIA. I am not talking about the transcript. But you did tell the press what happened in the closed executive session, within a few minutes after that session ended?

"Senator MCCARTHY. I gave them a résumé of the testimony; yes.

"Mr. DE FURIA. Sir, I am asking you, upon what authority, or by what right, you did that?

"Senator MCCARTHY. Because that has been our practice.

"Mr. DE FURIA. In spite of the rule of your own committee?

"Senator MCCARTHY. That has been the practice of the committee.

"Mr. DE FURIA. General Zwicker's affidavit was not made until 2 days later; isn't that right, Senator? It is dated February 20.

"Senator MCCARTHY. I don't know what date it is dated, but the transcript was not released until after the distorted version of the testimony given by Zwicker.

"Mr. WILLIAMS. Do you have the rule, there, Mr. de Furia?

"Mr. DE FURIA. Yes, I have the rule, and I would like to have it in evidence, if the chairman please.

"The CHAIRMAN. It will be received" (p. 350 of the hearings).

54. The rules of the Senate Committee on Government Operations, adopted January 14, 1953, provided:

"6. All testimony taken in executive session shall be kept secret and will not be released or used in public session without the approval of a majority of the subcommittee" (p. 352 of the hearings).

55. At that time the subcommittee consisted of seven members (p. 353 of the hearings).

56. During the executive session, Senator MCCARTHY said with reference to General Zwicker: "This is the first fifth-amendment general we've had before us" (p. 451 of the hearings).

57. After the executive session, Senator MCCARTHY said to General Zwicker:

"General, you will be back on Tuesday, and at that time I am going to put you on display and let the American public see what kind of officers we have" (p. 451 of the hearings).

58. The facts concerning Peress' Communist connections were known to General Zwicker's superior officers when he was directed to discharge Peress (p. 492 of the hearings).

59. General Zwicker was not responsible in any way for promoting or discharging Peress and was very much opposed to both (pp. 505 and 506 of the hearings).

60. Major Peress was not in a sensitive position so far as intelligence, or classified information or material was concerned (p. 505 of the hearings).

C. Legal questions involved in this category

The legal questions arising with reference to the incident relating to General Zwicker may be stated briefly as follows:

1. Is there any evidence that General Zwicker was not telling the truth in testifying before Chairman MCCARTHY?

2. Is there any evidence that General Zwicker was intentionally irritating or evasive or arrogant?

3. What is the law governing the treatment of witnesses before congressional committees?

4. Was the conduct of Senator MCCARTHY toward General Zwicker proper under the circumstances?

1. There is no evidence that General Zwicker was not telling the truth in testifying before Chairman MCCARTHY.

We have analyzed carefully the testimony of General Zwicker, of Senator MCCARTHY, and of the other witnesses relating to this question. We have concluded that General Zwicker, when he appeared as a witness before Senator MCCARTHY on February 18, 1954, was a truthful witness. We feel that it was evident that his examination was unfair, and that General Zwicker testified as fully and frankly as he could do, in view of the Presidential and Army directives which restricted his freedom of expression. These directives were known to his examiners, and however much they may have been out of sympathy with the directives, the fact remains that this was no excuse for berating General Zwicker and holding him up to public ridicule.

General Zwicker testified before the select committee. He underwent a vigorous and taxing cross-examination from Senator MCCARTHY'S counsel. A reading of his testimony and examination makes it clear that in no material respect was it necessary for General Zwicker to modify or change his testimony from that given on February 18, 1954, and that the double exposure of his evidence under searching examination revealed no distortion of fact or untruth.

2. There is no evidence that General Zwicker was intentionally irritating, evasive, or arrogant:

General Zwicker was initially examined at the New York hearing by Mr. Cohn, counsel for the subcommittee. It is evident that this examination was mutually courteous and satisfactory. Mr. Juliana and Mr. Anastos, of the staff of the subcommittee, both found General Zwicker to be cooperative and helpful. Even in his examination by Senator MCCARTHY, the record shows that the general was courteous and respectful throughout the hearing. We find in the record no single instance which supports the conclusion that he was intentionally irritating. Some questions General Zwicker refused to answer and in his answers to some of the questions, apparently, he meticulously sought to avoid the disclosure of material or information in the classified personnel file of Peress, or involving intra-Army discussions and policies, which he was under orders not to reveal. It should not have been difficult to meet this situation in a fair and reasonable way. Senator MCCARTHY said he was familiar with the Presidential order and the Army directives. A few moments could have been taken to analyze them, and so frame the questions propounded to the witness as to avoid any difficulty. The insistence that the witness answer long hypothetical questions and questions that are not clear even upon careful inspection and reflection, was much more the source of any resulting irritation on the part of the examiner than any conduct on the part of the witness.

Moreover, when he was before this committee, General Zwicker was subjected to a long and vigorous cross-examination and manifested great patience and candor and a complete lack of any tendency toward arrogance or irritability.

3. The law governing the treatment of witnesses before congressional committees:

The law and precedent on this subject has been stated many times. Senate Document No. 99, 83d Congress, 2d session, 1954, on Congressional Power of Investigation, gives an excellent summary of the law and procedure. Pertinent articles in current legal literature on the subject may be found in American Bar Association Journal, September 1954, at page 763, The Investigating Power of Congress: Its Scope and Limitations; Ohio Bar, August 9, 1954, at page 607, A Comparison of Congressional Investigative Procedures and Judicial Procedures With Reference to the Examination of Witnesses; and Federal Bar Journal, April–June 1954, page 113, Executive Privilege and the Release of Military Records. These articles are mentioned only as a source material and do not necessarily express or contain the views of the select committee.

There are no statutes and few court decisions bearing on the subject (Dimock, Congressional Investigations Committees, p. 153 (1929)). There are few safeguards for the protection of the witness. His treatment usually depends, and must depend, upon the skill and attitude of the chairman and the members. Since an investigation by a committee is not a trial, the committee is under no compulsion to make the hearing public.

We call attention to three cases in the Federal courts discussing this subject. *Barksy* v. *United States* (167 F. (2d) 241 (1948)) was a prosecution for failure to produce records before a congressional committee pursuant to subpena. The court stated at page 250:

"(14–17) Appellants press upon us representations as to the conduct of the congressional committee, critical of its behavior in various respects. Eminent persons have stated similar views. But such matters are not for the courts. We so held in *Townsend* v. *United States*, citing *Hearst* v. *Black*. The remedy for unseemly conduct, if any, by the committees of Congress is for Congress, or for the people; it is political and not judicial. 'It must be remembered that legislatures are ultimate guardians of the liberties and welfare of the people in quite as great a degree as the courts.' The courts have no authority to speak or act upon the conduct by the legislative branch of its own business, so long as the bounds of power and pertinency are not exceeded, and the mere possibility that the power of inquiry may be abused 'affords no ground for denying the power.' The question presented by these contentions must be viewed in the light of the established rule of absolute immunity of governmental officials, congressional and administrative, from liability for damage done by their acts or speech, even though knowingly false or wrong. The basis of so drastic and rigid a rule is the overbalancing

of the individual hurt by the public necessity for untrammeled freedom of legislative and administrative activity, within the respective powers of the legislature and the executive."

In *Townsend* v. *U. S.* (95 F. (2d) 352 (1938)), the defendant was convicted of failure to appear before a congressional committee.

In affirming the conviction, the court said at page 361:

"(14–17) A legislative inquiry may be as broad, as searching, and as exhaustive as is necessary to make effective the constitutional powers of Congress. *McGrain* v. *Daugherty* (273 U. S. 135, 47 S. Ct. 319, 71 L. Ed. 580, 50 A. L. R. 1). A judicial inquiry relates to a case, and the evidence to be admissible must be measured by the narrow limits of the pleadings. A legislative inquiry anticipates all possible cases which may arise thereunder and the evidence admissible must be responsive to the scope of the inquiry, which generally is very broad. Many a witness in a judicial inquiry has, no doubt, been embarrassed and irritated by questions which to him seemed incompetent, irrelevant, immaterial, and impertinent. But that is not a matter for a witness finally to decide. Because a witness could not understand the purpose of cross-examination, he would not be justified in leaving a courtroom. The orderly processes of judicial determination do not permit the exercise of such discretion by a witness. The orderly processes of legislative inquiry require that the committee shall determine such questions for itself. Within the realm of legislative discretion, the exercise of good taste and good judgment in the examination of witnesses must be entrusted to those who have been vested with authority to conduct such investigation. (*Hearst* v. *Black* (66 App. D. C. 313, 87 F. 2d 68).)"

Under these authorities, the Senate alone can review this record and determine, in justice to itself and to General Zwicker, whether the bounds of propriety, consonant with the lawful purpose of the subcommittee's investigation and fair and reasonable standards of senatorial conduct, were transgressed by Senator McCarthy in his examination of the general at New York on February 18, 1954, and later in his testimony before this committee.

The select committee is of the opinion that the very fact that "the exercise of good taste and good judgment" must be entrusted to those who conduct such investigations places upon them the responsibility of upholding the honor of the Senate. If they do not maintain high standards of fair and respectful treatment the dishonor is shared by the entire Senate.

4. The conduct of Senator McCarthy toward General Zwicker was not proper under the circumstances:

In the opinion of this select committee, the conduct of Senator McCarthy toward General Zwicker was not proper. We do not think that this conduct would have been proper in the case of any witness, whether a general or a private citizen, testifying in a similar situation.

Senator McCarthy knew before he called General Zwicker to the stand that the Judge Advocate General of the Army, who was the responsible person under the statutes, had given the opinion that a court-martial of Major Peress would not stand under the applicable regulations and that General Zwicker had been directed by higher authority to issue an honorable discharge to Peress upon his application.

Senator McCarthy knew that General Zwicker was a loyal and outstanding officer who had devoted his life to the service of his country, that General Zwicker was strongly opposed to Communists and their activities, that General Zwicker was cooperative and helpful to the staff of the subcommittee in giving information with reference to Major Peress, that General Zwicker opposed the Peress promotion and opposed the giving to him of an honorable discharge, and that he was testifying under the restrictions of lawful Executive orders.

Under these circumstances, the conduct of Senator McCarthy toward General Zwicker in reprimanding and ridiculing him, in holding him up to public scorn and contumely, and in disclosing the proceedings of the executive session in violation of the rules of his own committee, was inexcusable. Senator McCarthy acted as a critic and judge, upon preconceived and prejudicial notions. He did much to destroy the effectiveness and reputation of a witness who was not in any way responsible for the Peress situation, a situation which we do not in any way condone. The blame should have been placed on the shoulders of those culpable and not attributed publicly to one who had no share in the responsibility.

D. Conclusions

The select committee concludes that the conduct of Senator McCarthy toward General Zwicker was reprehensible, and that for his conduct he should be censured by the Senate.

VI. CHARGES NOT INCLUDED IN THE PUBLIC HEARINGS

Senate Resolution 301 provides that the committee: "shall be authorized to hold hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate, to require by subpena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, and to take such testimony as it deems advisable, and that the committee be instructed to act and make a report."

At the outset of our deliberations, the committee decided, preliminarily, that it was advisable to proceed with hearings upon 13 of the charges in the various proposed amendments, classified into the five major categories outlined in the notice of hearing. The other charges, however, remained pending before the committee and its staff. We have studied them in the light of the law and testimony developed in the hearings and have also investigated the evidence suggested in the charges. The committee thereafter confirmed its tentative decision not to conduct hearings on these other items. The committee believes it desirable under the resolution from which its powers and duties stem, to express its reasons for determining that formal hearings need not be conducted on these remaining charges.

The committee eliminated some of the charges for reasons of legal insufficiency, having concluded that the particular conduct charged was not in its judgment a proper basis for Senate censure. The determination of what constituted "legal insufficiency" in the context of a charge intended to support a proposed motion to censure a Member of the United States Senate was the most difficult task imposed upon this committee. No precedents found by the committee were particularly helpful in connection with this task. The path is narrow and the guideposts few.

Only three Senators have previously been censured by the Senate. Two, Senators McLaurin and Tillman, in 1902, for abusive and provocative language and engaging in a physical altercation on the floor of the Senate. The third, Senator Hiram Bingham, was censured in 1929 for having brought into an executive session of the Finance Committee's meeting on the tariff bill, as his aide, the assistant to the president of the Connecticut Manufacturers Association. The Senate found this action by Senator Bingham, "while not the result of corrupt motives" to be "contrary to good morals and senatorial ethics * * * (tending) * * * to bring the Senate into dishonor and disrepute * * *. The very paucity of precedents tends to establish the importance placed by the Senate on its machinery of censure.

Obviously, with such limited precedents the task of this committee in undertaking to determine what is and what is not censurable conduct by a United States Senator was indeed formidable. Individuals differ in their view and sensitivities respecting the propriety or impropriety of many types of conduct. Especially is this true when the conduct and its background present so many complexities and shadings of interpretations. Moreover, it is fairly obvious that conduct may be distasteful and less than proper, and yet not constitute censurable behavior.

We begin with the premise that the Senate of the United States is a responsible political body, important in the maintenance of our free institutions. Its Members are expected to conduct themselves with a proper respect for the principles of ethics and morality, for senatorial customs based on tradition, and with due regard for the importance of maintaining the good reputation of the Senate as the highest legislative body in the Nation, sharing constitutional responsibilities with the President in the appointment of officials and judges through advice and confirmation and participating in the conduct of foreign affairs through the ratification of treaties.

At the same time we are cognizant that the Senate as a political body imposes a multitude of responsibilities and duties on its Members which create great strains and stresses. We are further aware that individual Senators may, within the bounds of political propriety, adopt different methods of discharging their responsibilities to the people.

We did not, and clearly could not, undertake here to establish any fixed, comprehensive code of noncensurable conduct for Members of the United States Senate. We did apply our collective judgment to the specific conduct charged, and in some instances to the way a charge was made and the nature of the evidence preferred in support of it. And on the basis of the precedents and our understanding of what might be deemed censurable conduct in these circumstances, we determined whether, if a particular charge were established, we would consider it conduct warranting the censure of the Senate.

In concluding that certain of the charges dropped were legally insufficient for Senate censure, we do not want to be understood as saying that this committee approves of the conduct alleged. Yet disapproval of conduct does not necessarily call for official Senate censure.

The decision to eliminate any of the charges was arrived at only following extremely careful and thorough consideration. Unquestionably, one consideration underlying the elimination of these charges was the overall time factor. Under Senate Resolution 301 the select committee was directed by the Senate to hold its hearings and file its report prior to the sine die adjournment of the Senate in the 2d session of the then 83d Congress. And it was expressly contemplated that the Senate should be able to meet and consider such report at an appropriate time prior to such adjournment.

In order to abide by this direction and conform to such purpose it was necessary to narrow and confine the scope of its deliberations, and particularly of its formal hearings. The committee's study developed 12 major reasons which, singly or cumulatively, led to the elimination of these other charges from the committee's formal hearings. Only a few of these reasons, in addition to the ground of legal insufficiency, involved the passing of judgment upon the merits of any particular charge. The other reasons deal with the feasibility of the committee's attempting to investigate, document, and receive suitable testimonial evidence upon such specifications.

We set forth here the 12 general grounds upon which the other charges were dropped. Following that will be set forth, and appropriately identified, each charge eliminated, with the reasons for the omission of that particular charge indicated by a number or numbers in the right margin of the page. The numbers in the right margin correspond to the numbers of the 12 reasons for eliminating charges.

The 12 reasons applied as appropriate for eliminating particular charges are—

1. Charges which, even if fully supported and established, would not in the judgment of the committee constitute censurable conduct.

2. Charges which, even if fully supported and established after investigation, would in the judgment of the committee be of doubtful validity as a basis for censure.

3. Charges which are too vague and uncertain, or which were too broad in apparent scope to justify formal hearings by the committee.

4. Charges reflecting largely personal opinion rather than delineating specific, concrete conduct upon which a judgment of censure could properly be based.

5. Charges which, in order to determine properly, would have required more time to investigate, document, and take testimony upon, than was practically available to this committee.

6. Charges which were substantially covered or duplicated by other charges upon which the committee actually held hearings and received evidence.

7. Charges concerning statements made on the floor of the Senate about public officials, with which statements we may disagree, but which, if held censurable, would tend to place unwarranted limitations on the freedom of speech in the Senate of the United States.

8. Charges involving such matters as the receipt by a member of a committee of payments not corresponding to the value of services rendered, from persons subject to the jurisdiction of such committee (which might be reprehensible if true, because of some implication of improper influence), but which the committee believed were not susceptible of satisfactory proof in this forum.

9. Charges of improper treatment of a particular committee witness who is presently undergoing confidential security investigation by the executive department.

10. Charges involving misconduct of the staff of a standing committee of the Senate, over which that committee as a whole has jurisdiction and primary responsibility.

11. Charges concerning matters over which other committees have already acquired jurisdiction.

12. Charges on which no substantial evidence was submitted and none could be found by the committee.

The charges eliminated, and the reasons therefore, are:

	Reason why eliminated
Amendments proposed by the Senator from Arkansas, Mr. FULBRIGHT:	
"(1) The junior Senator from Wisconsin, while a member of the committee having jurisdiction over the affairs of the Lustron Co., a corporation financed by Government money, received $10,000 without rendering services of comparable value.	8
"(2) In public hearings, before the Senate Permanent Investigations Subcommittee, of which he was chairman, the junior Senator from Wisconsin strongly implied that Annie Lee Moss was known to be a member of the Communist Party and that if she testified she would perjure herself, before he had given her an opportunity to testify in her own behalf.	9
"(6) The junior Senator from Wisconsin in a speech on June 14, 1951, without proof or other justification made an unwarranted attack upon Gen. George C. Marshall."	7
Amendments proposed by the Senator from Oregon, Mr. MORSE:	
"(f) Attempted to invade the constitutional power of the President of the United States to conduct the foreign relations of the United States by carrying on negotiations with certain Greek shipowners in respect to foreign trade policies, even though the executive branch of our Government had a few weeks previously entered into an understanding with the Greek Government in respect to banning the flow of strategic materials to Communist countries; and	2, 3
"(g) Permitted and ratified over a period of several months in 1953 and 1954 the abuse of senatorial privilege by Mr. Roy Cohn, chief counsel to the Permanent Investigations Subcommittee of the Senate Committee on Government Operations of which committee and subcommittee the junior Senator from Wisconsin is chairman, Mr. Cohn's abuse having been directed toward attempting to secure preferential treatment for Pvt. David Schine by the Department of the Army, at a time when the Army was under investigation by the committee.	10
Amendments proposed by the Senator from Vermont, Mr. FLANDERS:	
"(1) He has retained and/or accredited staff personnel whose reputations are in question and whose backgrounds would tend to indicate untrustworthiness (Surine, Lavenia, J. B. Matthews).	4, 5
"(2) He has permitted his staff to conduct itself in a presumptuous manner. His counsel and his consultant (Messrs. Cohn and Schine) have been insolent to other Senators, discourteous to the public, and discreditable to the Senate. His counsel and consultant traveled abroad making a spectacle of themselves and brought discredit upon the Senate of the United States, whose employees they were.	4, 5, 10
"(3) He has conducted his committee in such a slovenly and unprofessional way that cases of mistaken identities have resulted in grievous hardship or have made his committee, and thereby the Senate, appear ridiculous. (Annie Lee Moss, Lawrence W. Parrish, subpenaed and brought to Washington instead of Lawrence T. Parish).	3, 4, 10
"(4) He has proclaimed publicly his intention to subpena citizens of good reputation, and then never called them. (Gen. Telford Taylor, William P. Bundy, former President Truman, Reporters Marder, Joseph Alsop, Friendly, Bigart, Philip Potter.)	1
"(5) He has repeatedly used verbal subpenas of questionable legality. (Tried to prevent State Department granting visa to William P. Bundy on ground that he was under 'oral subpena.')	2, 5
"(6) He has attempted to intimidate the press and single out individual journalists who have been critical of him or whose reports he has regarded with disfavor, and either threatened them with subpena or forced them to testify in such a manner as to raise the possibility of a breach of the first amendment of the Constitution. (Murrey Marder of Washington Post, the Alsops, James Wechsler.)	4, 5
"(7) He has attempted 'economic coercion' against the press and radio, particularly the case of Time magazine, the Milwaukee Journal, and the Madison Capital Times. (On June 16, 1952, MCCARTHY sent letters to advertisers in Time magazine, urging them to withdraw their advertisements.)	2, 3, 5
"(8) He has permitted the staff to investigate at least one of his fellow Senators (JACKSON) and possibly numerous Senators. Such material has been reserved with the obvious intention of coercing the other Senator or Senators to submit to his will, or for the purpose of inhibiting them from expressing themselves critically. (Cohn said he would "get" Senator JACKSON)— Washington News, June 14, 1954.	4, 10
"(9) He has posed as savior of his country from communism, yet the Department of Justice reported that MCCARTHY never turned over for prosecution a single case against any of his alleged Communists. (The Justice Department report of December 18, 1951.) Since that date not a single person has been tried for Communist activities as a result of information supplied by MCCARTHY.	1
"(11) He has used distortion and innuendo to attack the reputations of the following citizens: Former President Truman, Gen. George Marshall, Attorney General Brownell, John J. McCloy, Ambassador Charles E. Bohlen, Senator Raymond Baldwin, former Assistant Secretary of Defense Anna Rosenberg, Philip Jessup, Marquis Childs, Richard L. Strout of the Christian Science Monitor, Gen. Telford Taylor, and the three national press associations.	3, 4, 5
"(12) He has disclosed restricted security information in possible violation of the espionage law. (MCCARTHY has made public portions of an Army Intelligence study, Soviet Siberia, which compelled the Army to declassify and release the entire document.)	4, 6, 12
"(15) He has used his official position to fix the Communist label upon all individuals and newspapers as might legitimately disagree with him or refuse to acknowledge him as the unique leader in the fight against subversion. (Deliberate slips such as calling Adlai Stevenson "Alger"; saying that the American Civil Liberties Union had been "listed" as doing the work of the Communist Party; calling the Milwaukee Journal and Washington Post local "editions of the Daily Worker.")	3, 4, 5
"(16) He has attempted to usurp the functions of the executive department by having his staff negotiate agreements with a group of ship owners in London; and has infringed upon functions of the State Department, claiming that he was acting in the "national interest."	2, 3, 5
"(18) He has made false claims about alleged wounds which in fact he did not suffer. (Claims he was a tailgunner when, in fact, he was a Marine Air Force Ground Intelligence officer * * * claims he entered as buck private, when he entered as commissioned officer.)	1
"(19) His rude and ruthless disregard of the rights of other Senators	2

	Reason why eliminated
has gone to the point where the entire minority membership of the Permanent Investigating Subcommittee resigned from the committee in protest against his highhandedness (July 10, 1953).	
"(20) He has intruded upon the prerogative of the executive branch, violating the constitutional principles of separation of powers. (Within a single week (February 14–20, 1953) McCARTHY's activities against the Voice of America forced the State Department three times to reverse administrative decisions on matters normally considered internal operating procedures.	3
"((1) The Department had authorized the use of certain writings by pro-Communist authors as part of their program to expose Communist lies and false promises. McCARTHY compelled the State Department to discontinue this practice; (2) the Department authorized its employees to refuse to talk with McCARTHY's staff in the absence of McCARTHY himself. It was compelled to cancel this directive; and (3) John Matson, a departmental security agent who had 'cooperated' with McCARTHY, was transferred so as to be put out of reach of the Department's confidential files. McCARTHY compelled the Department to return Matson to his original position.)	
"(21) He has infringed upon the jurisdiction of other Senate committees, invading the area of the Internal Security Subcommittee and other committees of the Congress.	1, 3
"(22) He has failed to perform the solid and useful duties of the Government Operations Committee, abandoning the legitimate and vital functions of this committee.	3
"(23) He has held executive sessions in an apparent attempt to prevent the press from getting an accurate account of the testimony of witnesses, and then released his own versions of that testimony, often at variance with the subsequently revealed transcripts, and under circumstances in which the witness had little opportunity to correct or object to his version.	3, 4, 5
"(24) He has questioned adverse witnesses in public session in such a manner as to defame loyal and valuable public servants, whose own testimony he failed to get beforehand, and whom he never provided a comparable opportunity for answering the charges.	3, 5
"(25) He has barred the press and general public from executive sessions and then permitted unauthorized persons whom his whim favored to attend, in one case, a class of schoolgirls, thus holding the very principle of executive sessions up to ridicule.	3
"(26) His conduct has caused and permitted his subcommittee to be incomplete or incapacitated in its normal work for approximately 40 percent of the time that he has been its chairman. (During his 19 months as chairman of the subcommittee, his refusal to recognize their rights—later acknowledged by him—caused the minority members to leave the subcommittee on July 10, 1953, and they did not return until January 25, 1954. His personally motivated quarrel with the United States Army necessitated the interruption of the subcommittee's work and its exclusive preoccupation with the Army-McCarthy hearings from April 22, 1954, to June 17, 1954.)	2, 4, 10
"(27) He has publicly threatened publications with the withdrawal of their second-class mailing privilege because he disagreed with their editorial policy (Washington Post, Wall Street Journal, Time magazine). Letter to Postmaster General Summerfield made public August 22, 1953. See Washington Post, August 23, 1953.	12
"(28) He has exploited his committee chairmanship to disseminate fantastic and unverified claims for the obvious purpose of publicity. (McCARTHY's hint that he was in secret communication with Lavrenti P. Beria and would produce him as a witness when Beria was on the verge of execution in Moscow.) Washington News, September 21, 1953 (announcement of plan to subpena Beria).	2
"(29) He has denied Members of Congress access to the files of the committee, to which every Member of Congress is entitled under the Reorganization Act (title II, sec. 202, par. d).	3, 11
"(31) He has announced investigations prematurely, subsequently dropping these investigations so that the question whether there was ever any serious intent to pursue them may be justifiably raised, along with the inevitable conclusion that publicity was the only purpose (Central Intelligence Agency, Beria, etc.).	3
"(32) Checking through hearings, one will note that favorable material submitted by witnesses will usually have the notation 'May be found in the files of the subcommittee,' whereas unfavorable material is printed in the record.	3, 4, 5
"(33) He has permitted changing of committee reports and records in such a way as to substantially change or delete vital meanings. (Senator MARGARET CHASE SMITH felt compelled to object to the filing of his 1952 subcommittee reports without their first being sent through the full committee.)"	3

VII. BUSH AMENDMENT

Senate Resolution 301 submitted to the select committee for consideration contains not only the charges for censure, but also contains the amendment proposed by the Senator from Connecticut, Mr. BUSH, in regard to proposed changes in rules and procedure for Senate committees.

The select committee is aware of the fact that the Subcommittee on Rules of the Senate Committee on Rules and Administration has held extensive hearings on this subject.

Many witnesses appeared before that subcommittee, including Senator BUSH, and we are advised that this committee expects to have a report ready for the opening of the next session of Congress.

It is the firm conviction of the select committee that this is a subject which requires much study before affirmative action is taken on a general change in the rules and procedure of committees and subcommittees of the Senate. However, after hearing the evidance and the testimony presented at the hearing before our committee, we are of the opinion that had certain rules of committee procedure been in effect, much of the criticism against investigative committee hearings would have been avoided. For this reason, we report a separate resolution on the subject of the Bush amendment, to read as follows:

"*Resolved*, That subsection 3 of rule XXV of the Standing Rules of the Senate is amended by adding at the end thereof the following:

"'(c) No witness shall be required to testify before a committee or subcommittee with less than 2 members present, unless the committee or subcommittee by majority vote agrees that 1 member may hold the hearing, or the witness waives any objection to testifying before 1 member.

"'(d) Committee interrogation of witnesses shall be conducted only by members and authorized staff personnel of the committee and no person shall be employed or assigned to investigate activities until approved by the committee.

"'(e) No testimony taken or material presented in an executive session shall be made public, either in whole or in part or by way of summary, unless authorized by majority vote of the committee.

"'(f) Vouchers covering expenditures of any investigating committee shall be accompanied by a statement signed by the chairman that the investigation was duly authorized and conducted under the provisions of this rule'."

And we recommend that this amendment to the rules be approved by the Senate to be effective January 3, 1955.

VIII. RECOMMENDATIONS OF SELECT COMMITTEE UNDER SENATE ORDER PURSUANT TO SENATE RESOLUTION 301

For the reasons and on the facts found in this report, the select committee recommends:

1. That on the charges in the category of "Incidents of Contempt of the Senate or a Senatorial Committee," the Senator from Wisconsin, Mr. McCARTHY, should be censured.

2. That the charges in the category of "Incidents of Encouragement of United States Employees To Violate the Law and Their Oaths of Office or Executive Orders," do not, under all the evidence, justify a resolution of censure.

3. That the charges in the category of "Incidents Involving Receipt or Use of Confidential or Classified or Other Confidential Information From Executive Files," do not, under all evidence, justify a resolution of censure.

4. That the charges in the category of "Incidents Involving Abuse of Colleagues in the Senate," except as to those dealt with in the first category, do not, under all the evidence, justify a resolution of censure.

5. That on the charges in the category of "Incident Relating to Ralph W. Zwicker, a General Officer of the Army of the United States," the Senator from Wisconsin, Mr. McCARTHY, should be censured.

6. That with reference to the amendment to Senate Resolution 301 offered by the Senator from New Jersey, Mr. SMITH, this report and the recommendations herein be regarded as having met the purposes of said amendment.

7. That with reference to the amendment to Senate Resolution 301 offered by the Senator from Connecticut, Mr. BUSH, that an amendment to the Senate Rules be adopted in accord with the language proposed in part VII of this report.

The chairman of the select committee is authorized in behalf of the committee to present to the Senate appropriate resolutions to give effect to the foregoing recommendations.

[From the U. S. News & World Report of October 8, 1954]

WE'VE BEEN ASKED: THE MEANING OF CENSURE

(The proposal to censure Senator McCARTHY raises questions of what a vote of censure means. Does a censured Congressman lose his seat? Are other privileges taken from him? History shows that few Senators have been rebuked by censure; more have been expelled outright.)

What does the censure of a Senator mean? It means that he is criticized and reprimanded for some act of his. It takes a majority vote of the Senate to censure.

Must a Senator get out of the Senate if he is censured? In the past, censured Senators have been allowed to keep their seats, sometimes after apologies. It would be possible, however, for the Senate to expel a Member along with a vote of censure. (This is not proposed in the case concerning Senator JOSEPH R. MCCARTHY.)

Does censure bring any loss of privileges at all? It has not in the past. Under the Constitution, however, the Senate has almost unlimited power to punish a Member. It could, for example, remove a censured Member from chairmanship of a committee. But such penalties have not followed Senate votes of censure.

Under what clause of the Constitution is censure voted? Article I, section 5, says: "Each House may * * * punish its Members for disorderly behavior, and, with the concurrence of two-thirds, expel a Member." (The word "censure" is not used.)

Can a Senator get a court review of a vote to censure? No. Neither the Supreme Court nor other courts have a right to review a vote of censure by Congress.

When a Senator is censured, is he given a public rebuke? No, that is not the procedure. The vote itself, carrying a censure, is the end of the matter insofar as punishment of the Senator is concerned. That is the procedure followed in past cases, but there are few precedents for handling the censuring of Senators.

How many Senators have been censured? Only three. But the censure has been used more frequently as a reprimand in the House of Representatives.

Who has been censured by the Senate? Two Democrats from South Carolina were the first to be censured by the Senate, in 1902. This followed a fist fight on the floor between Senator Benjamin R. Tillman and Senator John L. McLaurin, after Mr. McLaurin accused Mr. Tillman of "a willful, malicious, and deliberate lie." Both Senators were censured and, after apologies, allowed to remain in the Senate.

The other Senator rebuked by censure was Hiram Bingham, Republican, of Connecticut, in 1929. He was censured for hiring a paid lobbyist to join the staff of a subcommittee and allowing him to sit in on closed meetings of the subcommittee which was considering tariff legislation.

Have some Senators been expelled, too? Yes, 16 Senators have been expelled from the Senate, beginning with Senator William Blount, of Tennessee, who was dismissed in 1797 for high misdemeanor approaching treason. Most of the others were dropped for their Southern sympathy or support during the early days of the Civil War. No Senator has been expelled since 1862, though efforts have been made to remove some since then.

What about the censure proposal for Senator MCCARTHY? Does that differ from earlier cases? Yes. For the first time, in the McCarthy case, a move is being made to censure a Senator for the way he conducted an investigation and for refusal to testify before a subcommittee. These points involve charges of abuse in the questioning of a witness before the McCarthy committee and of contempt in not appearing before a Senate subcommittee to answer accusations filed against him. The McCarthy case thus expands the grounds for censure proceedings.

[From the U. S. News & World Report of October 8, 1954]

FORGET IT'S MCCARTHY—REMEMBER THE CONSTITUTION

(By David Lawrence)

Certainly a Senator is guilty of bad manners when he denounces a witness who is evasive in testifying before a congressional committee.

Certainly a Senator is intemperate when he denounces a fellow Senator who has provoked him.

Certainly a Senator uses poor judgment when he sends bitterly worded replies to letters from a Senate committee which has invited him to testify, even if he regards its hearings as a political smear.

But—and here's the crux of the entire case—not a single statement or charge made in the report issued last week by the committee headed by Senator WATKINS, of Utah, affords constitutional justification for punishing any United States Senator now or hereafter.

The Constitution makes no reference at all to "censure," but specifically says that each House of Congress "may punish its members for disorderly behavior."

Crimes of the mind, however, are not crimes of the hand. Censure cases in the past have primarily concerned physical acts—fist fights in the heat of Senate debate. Neither contemptuous language nor a contemptuous "manner of expression" by a Senator is legal contempt of the Senate.

Drastic treatment in cross-examination of a recalcitrant witness was vigorously defended in 1936 by Senator Hugo Black, of Alabama, Democrat, then chairman of a Senate investigating committee and now a Justice of the Supreme Court of the United States. The right to excoriate fellow Members off the floor of Congress has always been held to be a prerogative of Members of Congress in political campaigning.

If the censure motion is approved by the Senate, the cause of freedom of speech will suffer a setback in the legislatures of the world. It will change the nature of the United States Senate. It will make of it a body in which minority rights hereafter will always be at the mercy of an intolerant majority.

The Watkins report points to an alleged act of impropriety in 1952—a refusal by the Senator in question to accept an invitation extended to him by a previous committee to testify on his personal finances. There's nothing in the records to justify the failure of that committee to issue a subpena, which the same Senator repeatedly had said he would honor.

Also, the Department of Justice and the Internal Revenue Service, under the present and preceding administrations, have not found any violations of law by the Senator in connection with his personal finances or his use of funds to fight communism. Has it not been argued often that to ferret out violations of law is primarily an executive and not a legislative function?

The Watkins committee says, however, that an invitation by the previous committee requesting the Senator to testify should have been enough. But is that law, or is it a new code of senatorial etiquette never before proclaimed in the Senate's own rules or precedents?

Back in 1929 and 1930 a demagogue from Alabama, the late Senator Heflin, vilified the Catholic Church, the Pope and the Vatican, and Americans of Catholic faith, in tirade after tirade, on the floor of the Senate. No Senator moved a vote of censure.

Likewise, in 1918 in the midst of war, the late Senator La Follette, Sr., made a speech denouncing the war and virtually inciting the populace not to allow their sons to be drafted. A Senate committee considered censure but refused to recommend it.

Both these instances of contemptuous speech are examples of what the late Justice Oliver Wendell Holmes of the Supreme Court of the United States, a great liberal, meant when he defined the freedom of speech guaranteed in our Constitution as "freedom for the thought we hate."

That's the acid test today, too. Are we true liberals, or are we totalitarians? If we are believers in "a government of laws and not of men," the Watkins report should be rejected by the Senate.

As a substitute motion, the Senate Committee on Rules—which for many months has been taking testimony on the subject of the procedures and methods of congressional investigating committees—should be directed to bring in a report defining what is or is not permissible in examining witnesses and what is or is not the proper procedure in obtaining testimony from Senators or Representatives themselves.

Congressional history is replete with instances of a refusal by Members to accept invitations to testify before investigating committees. It is regrettable that the Watkins committee declined to allow the evidence on this point to be introduced into the record.

Let's not legislate retroactively on any Senator. The Constitution says no ex post facto law shall be adopted. This means that no statute or rule shall punish any citizen or any Member of Congress for any past action which at the time was not a prohibited offense.

Let's forget it's MCCARTHY, and remember the Constitution.

[From U. S. News & World Report of October 22, 1954]

CENSURE FOR THE SENATE

(By David Lawrence)

A sensational revelation—disclosing a grave lack of security inside the executive branch of the Government of the United States—has just been made.

Joseph S. Petersen, Jr., a scientist specializing in physics and mathematics, has been arrested and formally charged with having in his possession—outside his office in the Government—secret documents of the highest importance. Our Government knows they were transmitted to a friendly government in Europe. The papers were then passed on to Moscow presumably by an agent planted in one of the offices abroad of that friendly government, which itself is now astounded and embarrassed by what has happened.

For nearly 5 years—from March 1948 to December 1952—documents of a top-secret nature were taken out of the National Security Agency by Professor Petersen, an employee, and used, as the Department of Justice now charges, with the intent to injure the United States.

The damage done by this leakage is incalculable. An attorney from the Department of Justice told the court that the far-reaching extent of the injury to the United States may not be known for several years.

The National Security Agency—which is not to be confused with the National Security Council—is a hush-hush operation wholly inside the Department of Defense. It is under Army jurisdiction. It is engaged in studying ciphers and developing codes. It is vested with the duty of protecting the secret communications of the United States Government.

As a consequence of this laxity, it may be asked, how much has Moscow been reading of our secret messages as they passed in code from Washington to telegraph and radio offices in other countries—messages to and from our embassies and messages containing vital facts about our Army, Navy and Air Force, and about the location of our atom-bomb piles abroad?

The truth is that, despite all the recent debate about running subversives out of the Government, there still are weaknesses in our security system.

Each governmental department or agency is, for example, the final judge of its own security setup.

There is no overall check and supervision from the standpoint of efficiency and followup.

No Governmentwide system to evaluate on a professional basis the derogatory information gathered about Government personnel has yet been established.

Too much attention has been given to the smokescreen raised by the leftwingers about protecting individual rights and too little time has been spent investigating the security techniques of each department.

The Army seems particularly vulnerable. To this day the public doesn't know the truth about the breakdowns of security at Fort Monmouth, N. J., where new radar devices were being developed for use in intercepting enemy bombers.

To this day we don't know who in the Army promoted Dr. Peress to be a major and who sat on the boards which failed to dismiss him as a security risk.

To this day we don't know why the recommendations made months ago by officers in the Army urging a cleanup at Fort Monmouth were so long disregarded.

It is the duty and responsibility of Congress, and particularly of the Senate, of the United States to check up on governmental operations of this kind.

Why, therefore, did a Senate committee spend nearly 3 months on trivialities such as the Cohn-Schine case, when there were serious deficiencies in our whole security system that need to be investigated by that same Permanent Subcommittee on Investigations of the Senate Committee on Government Operations?

The record shows that the Senate itself has been preoccupied with petty controversies over the intemperate remarks and bad manners of a Senator but has allowed a system to remain which lets our topmost secrets fall into the hands of our enemies.

The Senate is to convene in special session on November 8. It has no more important job to do than to insist that its committees be given full information by every Government agency as to the procedures in use and the reasons why Government personnel who must handle secret documents are not checked and double-checked periodically by a competent board.

The Petersen case is a shocking affair. It brings into disrepute the honor of the Government itself. It is a shameful neglect of the public interest. It is contemptuous of the American people.

Censure in the court of public opinion must be visited upon that large number of Senators who, by their diversionary acts, have actually "obstructed the legislative process." For they have unwittingly blocked the work of the very committee charged with the all-important duty of investigating governmental operations—particularly our security system itself.

The issue is more important than the individual behavior of any Senator. It involves a means of protecting the safety of the United States from the espionage of the Communists—a matter of the highest priority for the American people.

[From the U. S. News & World Report of October 29, 1954]

SHALL THE SENATE DESTROY ITSELF?

(By David Lawrence)

The United States Senate is about to convene in special session to consider a report made by a select committee of six members, headed by Senator WATKINS, of Utah, Republican. The report recommends that on three points Senator JOSEPH R. MCCARTHY, of Wisconsin, be censured.

The proposed action is unprecedented in the entire history of the Senate.

There have been three cases in the past in which censure has been voted. Two of them involved physical behavior—fist fights on the floor of the Senate—and the third was concerned with the ineligibility of a member of a Senator's own staff to attend executive sessions of the committee over which the Senator in question presided as chairman.

While the Constitution specifically grants to the Senate the power to punish its Members for disorderly behavior, there has been no censure ever voted for disorderly speeches or statements of individual Senators. Before the Watkins committee report was submitted, there had never been offered in the Senate such a proposal to curtail freedom of speech.

The Senate, of course, can adopt any new rules that it pleases. But never in the past has the Senate sought by ex post facto action to apply retroactively any new rule or code of behavior. To do so violates the spirit as well as the letter of the Constitution. It is not dislike of a man which is the issue, but a procedure that will affect our system of government for generations to come. It is of transcendent importance to the preservation of the freedom of the Senate itself to examine the basis for the most unusual action now recommended.

One of the startling conclusions of the Watkins committee reads as follows:

"From an examination and study of all available precedents, the select committee is of the opinion that the Senate has the power, under the circumstances of this case, to elect to censure Senator MCCARTHY for conduct occurring during his prior term in the Senate, should it deem such conduct censurable."

USURPING CENSURE POWER

But no Senator has ever been censured—or punished in any other way—for conduct as a Senator occurring in a prior term. The committee acknowledges this point, yet proceeds nevertheless to usurp the power to censure as it says:

"While it may be the law that one who is not a Member of the Senate may not be punished for contempt of the Senate at a preceding session, this is no basis for declaring that the Senate may not censure one of its own Members for conduct antedating that session, and no controlling authority or precedent has been cited for such position."

Nor is any "controlling authority or precedent" cited in the report to sustain the committee's position. For it may be stated with equal positiveness that, since a Senator may not be punished for legal contempt committed at a previous session, he cannot be legally censured either for what he did in a prior term.

The Watkins committee naively comments that, since the Hennings committee report containing various charges against Senator MCCARTHY "was filed on January 2, 1953, and since the new Congress convened the next day, there was not time for action in the prior session." Yet the Hennings committee had the matter under consideration more than 16 months. Would the Supreme Court of the United States uphold a prosecutor who claimed he "just didn't have time" to bring a case prior to the expiration of the "statute of limitations"?

There are several Senators whose conduct prior to their terms of office has been questioned in their respective States. If the Watkins committee report is adopted, the Senate will be in duty bound now to follow the new precedent, or else admit the charge that so many people are making—namely, that this is a case of persecution of one Senator who happens to be fighting communism. For why has the power of "censure" never been invoked in comparable cases against anybody else? Also, why did the Watkins committee refuse at its hearings to receive evidence on similar conduct by other Senators?

ELECTION MAKES CHARGES MOOT

Even more arbitrary is the bold effort of the Watkins committee to deprive the people of the States of the Union of the right to pass judgment themselves at the polls on political charges made against their Senators.

The Watkins committee indeed has ruled, in effect, that, when a Senator is elected by the people of a State, the Senate of the United States—entirely apart from an examination of possible fraud or taint in an election—may inquire into the previous behavior of a Senator and "censure" him for any reason which political feeling or prejudice may have inspired.

This is an intolerant position which no fairminded person in the Senate can justly defend. To accept such a rule is to amend the Constitution itself, and to do so without permitting the people of the States to have a voice in the making of such a change. This recommendation by the Watkins committee is itself contemptuous of the rights of the American people.

The argument is made by the committee that the Senate "can pass judgment upon conduct which is injurious to its processes, dignity, and official committees." But it is not explained how any injury to the "processes, dignity, and official committees" of the Senate can be committed by someone prior to the time he was elected for his current term.

Obviously, the occasion for raising such an issue is during the term of the Senator in question, and not when the people of his own State, after hearing the nature of the charges in a political campaign, have nevertheless elected him.

The Watkins committee is, in fact, contradicted on this point by the very words of the document which played so large a part in bringing about the "censure" proceedings—namely, the report by the Senate Subcommittee on Privileges and Elections, headed by Senator HENNINGS of Missouri, Democrat. At the end of its final report—the one it filed on January 2, 1953—was this "addendum":

"However, because of a lack of continuity in the committee membership and delays beyond the control of the present membership of the committee, its preparation has given us great concern as a number of its aspects have become moot by reason of the 1952 election. Such facts therein as were known to the people of the States particularly affected have been passed upon by the people themselves in the election."

All the important issues in the Hennings committee report were published in the press before or during the campaign and were passed upon by the people of Wisconsin when they reelected Senator MCCARTHY in November 1952. Since also the facts themselves relate to incidents which occurred prior to the election, the charges therefore have become moot.

There were two minor incidents which did occur after the November 1952 election and which were properly the subject of examination by the Watkins committee. One was a refusal by Senator MCCARTHY of a written invitation to testify sent him on November 21, 1952. Incidentally, this was the first formal invitation to testify ever sent to Mr. MCCARTHY by instruction of the Hennings committee during its 16 months of life. The Watkins committee says in its report that it accepts as a fact that this particular invitation was not personally received by the Wisconsin Senator in time for the meeting date specified. But the Hennings committee has never explained why it did not then set another date for a hearing. The other point concerned a "denunciatory" letter written by Senator MCCARTHY and dated December 1, 1952, in which he charged that the Hennings committee had impugned his honesty and integrity without evidence to support its charge. He declared, moreover, that the committee was politically motivated.

But the Watkins committee concedes that "similar language" was used in Senator MCCARTHY's letters denouncing the committee

which were published long before the 1952 election in Wisconsin.

M'CARTHY CREDENTIALS ACCEPTED

The Watkins committee argues repeatedly the right of the Senate to disregard the votes of the people of a sovereign State. It says:

"The reelection of Senator McCARTHY in 1952 did not settle these matters. This question is answered in part by our conclusions that the Senate is a continuing body and has power to censure a Senator for conduct occurring during his prior term as a Senator, and in part by the fact that some of the contumacious conduct occurred after his reelection, notably the letter of December 1, 1952. The Senate might have proceeded with this matter in 1953 or earlier in 1954 had the necessary resolution been proposed.

"Some of the questions, notably the use for private purposes of funds contributed for fighting communism, were not raised until after the election. The people of Wisconsin could pass only upon what was known to them."

The time to have challenged Senator McCARTHY on all these issues, however, was on the afternoon of January 3, 1953, as he was about to take the oath of office for his second term in the Senate. He had declared at the time in a public statement that if anybody wished to question his right to take a seat, the time to do it was then. The very Members of the Senate who 18 months later proposed "censure" charges were present at the session at which the credentials of Senator McCARTHY were offered and accepted by the Senate.

The Senate really knew through the press before January 3, 1953, all the charges, insinuations, and allegations in the case. The enemies of Senator McCARTHY had leveled all kinds of accusations at him in that campaign.

Certainly if the Wisconsin Senator were not qualified for admission to a new term, or if there was anything about his conduct that required further examination, it was the duty of the Senate, when it convened at noon on January 3, 1953, to ask him to step aside while it adopted the necessary procedure then and there to settle the question of whether or not he had acted with propriety.

SENATOR-ELECT NOT "CONTINUING" MEMBER

The Watkins committee pointedly characterizes the Senate as a "continuing body." This, however, can refer, when the Senate reconvenes, only to those Senators whose terms have not expired. The Constitution declares spescifically that the 6-year term of a Senator shall "end" at noon on January 3 of the year set for the assembling of each new Congress. By no stretch of legal reasoning can anybody be considered a "continuing" Member of the United States Senate whose term has ended or whose credentials as a Senator-elect have not yet been duly accepted by the Senate.

The Watkins committee holds as a basis of censure in 1954 that the Wisconsin Senator declined to appear in person in 1951 and 1952 before the Hennings committee to testify on charges made against him. But he did testify on other matters before the same committee on July 3, 1952, and could have been questioned that day on anything the committee chose to ask him.

The Wisconsin Senator, of course, did answer the committee again and again in writing, and categorically denied the truth of the specific charges concerning his personal affairs.

The Watkins committee, moreover, admits that at no time did the Hennings committee issue a subpena, but says that a mere written request to testify should have been enough. Is that, however, in accord with precedent? How many cases have there been in which United States Senators who were merely "invited" to testify have declined to do so?

In all fairness, the Senate should make public now the names of those Senators who even in recent months have for various reasons declined to testify before a Senate committee in response to its invitations.

It is argued, of course, that in the case of Senator McCARTHY the issue was related to his personal conduct and personal finances. But so far as the Senate is concerned—if these are to be the new rules—it does not matter what the basis for the request happens to be. For the Watkins committee plainly implies that a United States Senator must respond to an invitation to testify, irrespective of the subject matter under consideration.

IS AN INVITATION VALID?

If it be conceded that the Senate, on the other hand, does have the right to inquire into the behavior of a Senator in a prior term, an examination of the legal circumstances under which the so-called invitations to testify were issued by the Hennings committee to the Senator from Wisconsin becomes pertinent. The Watkins committee says:

"It is the opinion of the select committee that a request to appear, such as the letter and telegram from the subcommittee to Senator McCARTHY dated November 21, 1952, was sufficient (aside from any question whether Senator McCARTHY received them in time) to meet the requirements of the law."

What law is the committee talking about? There is no law on the subject. The Rules of the Senate do not specify anything about response to committee invitations. In fact, there are no rules at all in the Senate covering this subject.

How can it be persuasively argued that the Wisconsin Senator "obstructed the legislative process" when the Senate Subcommittee on Elections and Privileges itself did not exercise its right under the "legislative process" to issue a subpena?

It is true that, prior to November 1952, the Wisconsin Senator did receive informal invitations, giving him "the opportunity to appear," as a matter of courtesy, before the Senate subcommittee. He made it clear in his replies that he would not appear voluntarily but would obey a subpena. He did stipulate also that he would appear if he were given by the subcommittee the right to cross-examine witnesses.

The Watkins committee says on this point:

"He [Senator McCARTHY] also stated that he would not appear unless he were given the right to cross-examine witnesses. We feel that this right should have been accorded to him and that upon proper request, either to the Committee on Rules and Administration, of which Senator McCARTHY was a member, or to the Senate itself, he could have obtained this right, but that in any event, this cannot be a justification for contemptuous conduct."

Using the same reasoning that the Watkins committee has employed, why was it necessary for the Senator from Wisconsin to go beyond a simple request to the chairman of a Senate subcommittee when asking for the right to cross-examine? Why was it obligatory for him to adopt any legal process involving the passage of a motion by the Senate itself in order to get the simple right to cross-examine?

INFORMAL REQUEST WORKS BOTH WAYS

The Watkins committee cannot have it both ways. It cannot argue the sufficiency of informal requests by the Hennings committee in one case, inviting Senator McCARTHY to testify, and justify in another instance the failure of that same subcommittee to honor an informal request by the Senator from Wisconsin seeking the right to cross-examine.

Since, moreover, the Wisconsin Senator is now held by the Watkins committee to have been right in his contention that he should have been accorded the opportunity for cross-examining witnesses, was this not a sufficient justification for his declination of the invitation of the Hennings committee before which he was asked to testify? His request went to the core of the issue—the conditions under which he would be testifying as to his personal affairs if he voluntarily accepted the invitation.

Is it contemptuous to ask that your personal rights be safeguarded by a tribunal that has sought to indict you?

The Watkins committee holds nevertheless that failure to testify was indeed contemptuous, contumacious, and denunciatory. It carefully refrains from charging the Senator with legal contempt, but plays on words in an attempt to convey an equivalent meaning.

In this connection, the Watkins committee speaks of Senator McCARTHY's letter denouncing in "harsh terms" the Hennings committee as "contumacious in its entire form and manner of expression."

Since when are Members of the Senate to be deprived of their right off the floor of the Senate to denounce other Members of the Senate?

Are we to have political campaigns in which only those persons who are not Members of the Senate may denounce the candidates who happen to be Senators?

Are we to have campaigns in which Senators go into other States and speak in criticism of incumbent Senators and then become subject to "censure" under this alleged rule of the Senate? This goes to the heart of the free speech question. For the right to denounce is the right of free speech.

ACCUSATION WITHOUT PROOF

Evidently the Hennings committee itself felt no restraint about asking what Senator McCARTHY regards as insulting questions. They were indeed full of innuendos, impugning the integrity of a fellow Senator. Yet the Watkins committee upholds that form of accusation without proof. Its report says on that point:

"It is our opinion that the failure of Senator McCARTHY to explain to the Senate these matters: (1) Whether funds collected to fight communism were diverted to other purposes inuring to his personal advantage; (2) whether certain of his official activities were motivated by self-interest; and (3) whether certain of his activities in senatorial campaigns involved violations of the law; was conduct contumacious toward the Senate and injurious to its effectiveness, dignity, responsibilities, processes, and prestige."

Do not the members of the Watkins committee know that dozens of Members of Congress every year collect funds for public purposes, and not one of them has yet been required to divulge the names of his contributors except in regular election campaigns?

Since when must a Senator answer all the smear accusations filed against him by his critics, especially those charges which vaguely claim, as the Senate committee phrases it, that "certain of his official activities were motivated by self-interest"?

Where is the rule of the Senate which defines what is or is not self-interest?

How many Members of the Senate are doing business today with the Government of the United States through their private business connections?

How many Members of the Senate vote from time to time on issues in which they have a direct personal interest?

As for the charges that funds collected for a public cause were used for personal purposes, is it not the function and duty of the Department of Justice and the Internal Revenue Service to determine whether there are violations of Federal law involved? Subsequent to the time when the Hennings Committee made its report on January 2, 1953, the Department of Justice examined the document, made its own investigation, and then

stated publicly that it found no violation of Federal law by the Wisconsin Senator.

The Internal Revenue Service, moreover, has thoroughly investigated Senator McCARTHY's income-tax returns. It did so when the Truman administration was in power, and likewise examined them again under the Eisenhower administration. But, according to an article published in the Washington Evening Star, last August, before the Watkins committee made its report, no evidence of any violation of law has been found.

Why didn't the Watkins committee, with its deference to and professed respect for the jurisdiction of executive agencies, take cognizance of the action of the Internal Revenue Service and the Department of Justice, both of which were concerned with the truth or falsity of these very charges?

The committee rightly decided that what Senator McCARTHY may have said in inviting Federal employees to supply him, as the chairman of a congressional committee, with information concerning corruption, communism, or treason in Government, does not furnish ground for censure.

NO CENSURE WHEN PROVOKED

The committee rejected also as a basis for censure the comment made by the Wisconsin Senator that the Vermont Senator was senile. The committee says:

"The remarks of Senator McCARTHY concerning Senator FLANDERS were highly improper. The committee finds, however, that they were induced by Senator FLANDERS' conduct in respect to Senator McCARTHY in the Senate caucus room, and in delivering provocative speeches concerning Senator McCARTHY on the Senate floor. For these reasons, the committee concludes the remarks with reference to Senator FLANDERS do not constitute a basis for censure."

This is the most amazing paragraph in the entire Watkins committee report. Here it is flatly stated that Senator McCARTHY should not be censured for his denunciation of Senator FLANDERS because the latter had delivered provocative speeches concerning the Wisconsin Senator on the Senate floor. But what about the Vermont Senator who furnished the provocation? Logically, is he not subject to a censure resolution now?

The Watkins committee plainly says in this instance that Senator McCARTHY is to be absolved from censure because he was provoked. Yet, later on it recommends a censure count against the Wisconsin Senator because of his statement of January 2, 1953, saying that, in joining with the two Democrats and signing the Hennings committee report, his fellow Republican—Senator HENDRICKSON, of New Jersey—was without brains or guts.

What a petty business to introduce this as a basis for a censure resolution, and with what mock dignity, coming as it does from Senators accustomed to the epithets of the stump. Alongside President Truman's letters to the music critic and about the marines and, in a public speech, his use of s. o. b.—and he didn't use just the initials either—to characterize a political critic, the language of the Senator from Wisconsin seems to have been rather restrained.

"UNINTENTIONAL" PROVOCATION

The last censure count concerns the treatment of General Zwicker, who was a witness before Senator McCARTHY's committee early in 1954. This was an incident that did occur in the current term of the Senate and hence it is within the proper time limitation. The Watkins committee declares:

"There is no evidence that General Zwicker was intentionally irritating, evasive, or arrogant."

The testimony of General Zwicker has been printed in full for everybody to read. There are honest differences of opinion as to whether the general was provocative. But the Watkins committee poses a new problem in mental gymnastics when it says he was not intentionally irritating, evasive, or arrogant.

Is this to be taken to mean that he actually may have been irritating, evasive, or arrogant, but did not intend his remarks to have such an impact? If so, is not what actually happened the best proof? It was obvious to anyone present at the hearing that the Wisconsin Senator was irritated and was provoked into an outburst of temper.

Is the United States Senate to be censorious of all such conduct? If so, it must go back into its own records and begin to appoint committees to investigate the conduct of other Senators who have from time to time either ejected witnesses bodily or else said things even worse than Senator McCARTHY ever said.

One Member of the present Senate told a recalcitrant witness—a general, too—at a congressional hearing a few years ago that anybody who took the attitude he did about the security procedures under discussion should be taken out and shot.

Several Senators have used profanity in arguing with witnesses.

One Senator last summer made a speech implying in so many words that another Senator was morally delinquent in his personal life.

One Senator only last week in a written statement issued during the heat of the campaign said, with reference to a fellow-Senator who had left his own party, that "when a renegade leaves the camp, he becomes a worse traitor than an enemy spy."

Must not all these Senators now be hauled before the bar of the Senate and censured for contemptuous language? Or is freedom of speech to be regarded as the late Justice Oliver Wendell Holmes defined it—as "freedom for the thought we hate"?

Whatever motivates the human mind and provokes it to anger is speculatively interesting but hardly constitutes a fit subject for the adoption of a censure resolution by the United States Senate. It is beneath the dignity of that body and tends to bring its prestige as a legislative institution into nationwide disrepute.

Whether or not General Zwicker was intentionally irritating, evasive, or arrogant, it is a fact that he did provoke Senator McCARTHY. The Senate committee itself has said in the Flanders case that, where there is provocation, there is no justification for censure, irrespective of what the remarks happen to be. Why doesn't provocation therefore constitute grounds for eliminating the censure charge growing out of the remarks made by the Wisconsin Senator to General Zwicker?

CONTRADICTIONS IN FINDINGS

The Watkins committee contradicts itself further on another point in its findings. Under the heading, "The Law Governing the Treatment of Witnesses before Congressional Committees," the committee says:

"The law and precedent on this subject has been stated many times."

But in the next paragraph the committee declares:

"There are no statutes and few court decisions bearing on the subject."

Which statement are we to accept?

There are, of course, no statutes discussing the treatment of witnesses before a Senate committee except in cases of legal contempt. Nor has the Senate ever adopted any law or rule on the subject of the treatment of its Members as witnesses, other than the legal process which takes effect if there is a refusal to obey a subpena.

The facts are that General Zwicker himself, in his testimony, admitted he had read in the press that Major Peress had invoked the fifth amendment, but told Senator McCARTHY at the hearing that he didn't know it was in connection with Communist activities. Yet he previously had informed a Senate committee staff member he knew about the charges of Communist activities by Peress. This was an astounishing contradiction. Small wonder this doubletalk produced the impression that the general was evasive. That's why it drew the fire of the Wisconsin Senator.

The real point, however, is that the general failed in all candor to tell the subcommittee of the Senate Committee on Government Operations the procedures in the case in which he himself was a factor. His main excuse was that he was obeying an order.

The Senate of the United States, on the other hand, is not required to conform to any Executive order limiting the testimony of subordinates in the Government with respect to governmental operations. The Congress holds the purse strings, and it has the right to command testimony on Government procedures.

A MORE DRASTIC ATTACK NECESSARY

No Senator should be censured for his persistent effort to get information from an evasive witness during the course of a committee investigation. In the last issue of this magazine an article was reprinted from Harper's magazine in which Hugo Black, then Senator from Alabama—now a Supreme Court Justice—wrote in 1936 of his difficulties in getting information from witnesses. He said that sometimes it is necessary "in the presence of a witness who is deliberately concealing the facts to attempt to shake it out of him with a more drastic attack."

Provocations of Senators and Representatives to anger when they try to cross-examine witnesses are frequent. While these instances are numerous, no case of censure of a Senator who has been the victim of such provocation has been recorded. The Watkins committee makes this pertinent comment:

"The very paucity of precedents tends to establish the importance placed by the Senate on its machinery of censure.

"Obviously, with such limited precedents the task of this committee in undertaking to determine what is and what is not censurable conduct by a United States Senator was indeed formidable. Individuals differ in their view and sensitivities respecting the propriety or impropriety of many types of conduct. Especially is this true when the conduct and its background present so many complexities and shading of interpretations. Moreover, it is fairly obvious that conduct may be distasteful and less than proper, and yet not constitute censurable behavior."

If the Watkins committee had stopped there, it would have been stating the facts as they have been historically established. The Watkins committee might well have added then that it would propose certain new rules to be adopted and that it would ask the Senate to pass concretely on the phraseology of such rules. This would be orderly procedure.

It is disruptive of orderly procedure, however, to introduce as a basis for censure a vaguely worded critique on a manner of expression by a Senator or to interject a dogmatic treatise on psychology in order to rule on what is intentional or unintentional "provocation" by a witness. This creates for the future all sorts of doubts and misgivings concerning the true rights of Members of the United States Senate.

The Watkins committee itself recognizes the dilemma in this observation:

"We are cognizant that the Senate as a political body imposes a multitude of responsibilities and duties on its Members which create great strains and stresses. We are further aware that individual Senators may, within the bounds of political propriety, adopt different methods of discharging their responsibilities to the people.

"We did not, and clearly could not, undertake here to establish any fixed, comprehensive code of noncensurable conduct for Members of the United States Senate."

Had the committee been content with that broad statement and proposed that a set of explicit rules be adopted to govern future conduct, it would have been well within its rights. It would have been following the precept of the Supreme Court of the United States, which has again and again ruled that vaguely written laws are invalid unless legislative standards are prescribed for the guidance of those who are to administer the statutes. Had the Watkins committee prescribed the standards for the future, its report would have been welcomed by everybody as a constructive contribution to the whole subject.

WHAT CONDUCT IS LEGAL?

Today the country is confused, and so may well be the future members of the Senate as to what is or is not proper conduct from a legal standpoint.

If the Watkins committee report is adopted, an intolerant majority in the United States Senate will feel it has the right at any time hereafter to wipe out minority dissent by the simple device of censure. Will a southerner, for example, who has made speeches denouncing members of the Supreme Court of the United States for their decision on segregation now be eligible for admission to the United States Senate if a majority chooses to decide that disorderly words constitute conduct prior to his term sufficient to deny him admission under the inherent power doctrine asserted in the Watkins report?

A rule of fear has been proposed by the Watkins committee. That rule must be summarily rejected by the Senate unless it wishes to apply throught control or conformity of thought to a free institution which has existed since 1789.

Shall the Senate destroy itself by curtailing the right of free speech?

What did Abraham Lincoln say under somewhat analogous circumstances? During the War Between the States, Postmaster General Blair, whose own home had been burned by Confederate troops, exclaimed that "nothing better could be expected while politicians and cowards have the conduct of military affairs." Secretary of War Stanton wrote President Lincoln backing up the demand of General Halleck that Blair be dismissed from the Cabinet. Mr. Lincoln said in reply:

"Your note * * * enclosing General Halleck's letter * * * relative to offensive remarks supposed to have been made by the Postmaster General concerning the military officers on duty about Washington is received. The general's letter in substance demands that if I approve the remarks I shall strike the names of those officers from the rolls; and that if I do not approve them the Postmaster General shall be dismissed from the Cabinet.

"Whether the remarks were really made I do not know, nor do I suppose such knowledge is necessary to a correct response. If they were made, I do not approve them; and yet, under the circumstances, I would not dismiss a member of the Cabinet therefor. I do not consider what may have been hastily said in a moment of vexation at so severe a loss is sufficient ground for so grave a step. Besides this, truth is generally the best vindication against slander. I propose continuing to be myself the judge as to when a member of the Cabinet shall be dismissed."

FUNDAMENTAL ISSUE OF FREE SPEECH

A courageous Senate, free from passion and the prodding of pressure groups, true to the historic principles of liberalism which have governed the American people from the foundation of the Republic, will seek to uphold the highest principles of American jurisprudence.

The Senate, therefore, should table the censure resolution and promulgate a rule in an orderly manner prescribing the standards for future conduct of its Members. But such rules must be written so as not to prejudice the right of free speech guaranteed by the Constitution of the United States to everybody—including Members of the United States Senate itself.

Where are the true liberals in America? Let them stand up and be counted on this fundamental issue of free speech.

Mr. JOHNSON of Texas. I yield 1 minute to the distinguished Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, all of us are aware of the right to petition to Congress, and I am sure all of us approve of it. Certainly I would not for a moment wish to restrict that right. However, I believe that all of us agree that such a right should be exercised in a reasonable and lawful manner.

I have been informed that at about 1 o'clock this afternoon a U. S. Trucking Co. armored car drove up in front of the Senate Office Building and that two armed guards got out of the truck and unloaded some cartons from it. The guards then stood guard around the truck with drawn pistols.

Later one of the guards entered the Senate Office Building with a pistol in his holster at his side. However, Police Capt. Michael Dowd disarmed the guard and took his pistol from him and had it put either in a desk or in some other place.

I was told all this by members of the press.

I ask unanimous consent that the Sergeant at Arms be instructed to look into this subject and submit a report to the Senate at the earliest possible moment as to exactly what did happen during this incident.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Texas has 23 minutes remaining.

Mr. CASE. Mr. President, will the majority leader yield me 1 minute?

Mr. KNOWLAND. I have no time to yield. I wonder whether the acting minority leader would yield 1 minute to the Senator from South Dakota.

Mr. KEFAUVER. I yield 1 minute to the Senator from South Dakota.

Mr. CASE. Mr. President, allusion has been made several times to the statement of the late Senator Taft at the opening of the 83d Congress. I have that statement before me. I believe for the purposes of the record it ought to be read at this time.

The late Senator Taft made reference to the fact that some contests had been filed in connection with the election of Senator LANGER and Senator CHAVEZ. Then he said:

My own view is that these Senators should be permitted to take the oath and be seated. It is my further view that the oath is taken without prejudice to the right of anyone contesting the seat to proceed with the contest, and without prejudice to the right of anyone protesting or asking for expulsion from the Senate to proceed. I believe that the various protests which have been filed should be referred to the appropriate committee and dealt with in due course.

There followed some additional statements by the late Senator Taft, the Senator from Oregon [Mr. MORSE], and the Vice President. However, the gist of the suggestion was that all Senators presenting themselves at that time could take the oath of office without derogation of any rights any protestant might have with regard to the seating or expulsion, or anything else.

Obviously, Mr. President, if the Senate retained the right to consider expulsion or not to seat a Senator, it retained the right to invoke a lesser penalty. It was on that basis, in the consideration of this subject in committee, that I felt the statute of limitations had not run.

Mr. KNOWLAND. Mr. President, while awaiting the arrival of the minority leader, I suggest the absence of a quorum if that is agreeable to the acting minority leader.

Mr. KEFAUVER. It is agreeable to me.

The VICE PRESIDENT. The Secretary will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Abel	Frear	Mansfield
Aiken	Fulbright	Martin
Anderson	George	McCarthy
Barrett	Gillette	McClellan
Beall	Goldwater	Millikin
Bennett	Green	Monroney
Bridges	Hayden	Morse
Brown	Hendrickson	Mundt
Burke	Hennings	Murray
Bush	Hickenlooper	Neely
Butler	Hill	O'Mahoney
Byrd	Holland	Pastore
Carlson	Hruska	Payne
Case	Humphrey	Potter
Chavez	Ives	Purtell
Clements	Jackson	Robertson
Cooper	Jenner	Russell
Cordon	Johnson, Colo.	Saltonstall
Cotton	Johnson, Tex.	Schoeppel
Daniel, S. C.	Johnston, S. C.	Scott
Daniel, Tex.	Kefauver	Smith, Maine
Dirksen	Kerr	Smith, N. J.
Douglas	Kilgore	Sparkman
Duff	Knowland	Stennis
Dworshak	Kuchel	Symington
Eastland	Langer	Thye
Ellender	Lehman	Watkins
Ervin	Long	Welker
Ferguson	Magnuson	Williams
Flanders	Malone	Young

• Mr. SALTONSTALL. I announce that the Senator from Ohio [Mr. BRICKER], the Senator from Indiana [Mr. CAPEHART], and the Senator from Wisconsin [Mr. WILEY] are absent by leave of the Senate on official business.

Mr. CLEMENTS. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Florida [Mr. SMATHERS] are absent by leave of the Senate on official business.

The Senator from Massachusetts [Mr. KENNEDY] is absent by leave of the Senate because of illness.

The VICE PRESIDENT. A quorum is present.

The Senator from Texas [Mr. JOHNSON] has 13 minutes remaining. Does the Senator desire to yield additional time?

Mr. JOHNSON of Texas. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. JOHNSON of Texas. How much time remains?

The VICE PRESIDENT. The Senator from Texas has 13 minutes.

Mr. JOHNSON of Texas. And the Senator from California has how much time?

The VICE PRESIDENT. None.

Mr. JOHNSON of Texas. As I understand, there is 13 minutes' time left. Is it all in the control of the senior Senator from Texas?

The VICE PRESIDENT. The Senator from Texas yielded earlier 15 minutes to the Senator from California [Mr. KNOWLAND]. So at this time 12 minutes remain, or 6 minutes to each side.

Mr. JOHNSON of Texas. Mr. President, I yield 3 minutes to the distinguished Senator from Oklahoma [Mr. MONRONEY].

The VICE PRESIDENT. The Senator from Oklahoma is recognized for 3 minutes.

Mr. MONRONEY. Mr. President, a great deal of importance seems to be attached to the alleged running of the statute of limitations. With reference to count No. 1, I should like to invite the attention of the Members of the Senate to the fact that much of the time that elapsed was time which was given in behalf of the committee in order to be eminently fair to the junior Senator from Wisconsin. More than 6 weeks elapsed during the early part of the year in which the junior Senator from Wisconsin was repeatedly invited to test the jurisdiction and the vote of confidence of the Senate itself in the Gillette subcommittee. Repeated delays were granted in the hope that the junior Senator from Wisconsin would accept the repeated invitations sent to him by the chairman of the subcommittee to come before the subcommittee and to answer the charges which had been made, on which the Gillette subcommittee was acting as the agent of the Senate itself.

But the most important thing was that after the campaign began in the State of Wisconsin, the distinguished and able chairman of the subcommittee, the Senator from Iowa [Mr. GILLETTE], said it was not fair to the junior Senator from Wisconsin, who was at that time running for reelection, for the committee to be sitting and taking evidence which might be used politically against the junior Senator from Wisconsin. That statement came from the Democratic chairman of the subcommittee.

After the beginning of the campaign, which was near the middle of July, and until after the election in November, not one wheel turned in public hearings, or, I believe, in executive hearings. No witnesses were called before the Gillette subcommittee.

In other words, in order to lean over backward in fairness to the junior Senator from Wisconsin, the subcommittee suspended its action, and it was not until after the November election that, under the leadership of the distinguished Senator from Missouri [Mr. HENNINGS], the hearings were resumed. It was, of course, an impossibility to rush them to a conclusion, because the subcommittee again invited and repeatedly sent invitations to the junior Senator from Wisconsin to appear before the subcommittee and to give the answers which only he knew.

To hear it pleaded now by the proponents of the cause of the junior Senator from Wisconsin that count 1 of the resolution is dead because the statute of limitations has run is certainly not in accordance with the facts as they exist in the Gillette subcommittee.

Mr. JOHNSON of Texas. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Abel	Frear	Mansfield
Aiken	Fulbright	Martin
Anderson	George	McCarthy
Barrett	Gillette	McClellan
Beall	Goldwater	Millikin
Bennett	Green	Monroney
Bridges	Hayden	Morse
Brown	Hendrickson	Mundt
Burke	Hennings	Murray
Bush	Hickenlooper	Neely
Butler	Hill	O'Mahoney
Byrd	Holland	Pastore
Carlson	Hruska	Payne
Case	Humphrey	Potter
Chavez	Ives	Purtell
Clements	Jackson	Robertson
Cooper	Jenner	Russell
Cordon	Johnson, Colo.	Saltonstall
Cotton	Johnson, Tex.	Schoeppel
Daniel, S. C.	Johnston, S. C.	Scott
Daniel, Tex.	Kefauver	Smith, Maine
Dirksen	Kerr	Smith, N. J.
Douglas	Kilgore	Sparkman
Duff	Knowland	Stennis
Dworshak	Kuchel	Symington
Eastland	Langer	Thye
Ellender	Lehman	Watkins
Ervin	Long	Welker
Ferguson	Magnuson	Williams
Flanders	Malone	Young

The VICE PRESIDENT. A quorum is present.

The hour of 3 o'clock having arrived, the clerk will state the first committee amendment.

The CHIEF CLERK. On page 1, line 1, after the word "That," it is proposed to strike out "the conduct of the Senator from Wisconsin Mr. MCCARTHY, is unbecoming a Member of the United States Senate, is contrary to senatorial traditions, and tends to bring the Senate into disrepute, and such conduct," and to insert in lieu thereof "the Senator from Wisconsin, Mr. MCCARTHY, failed to cooperate with the Subcommittee on Privileges and Elections of the Senate Committee on Rules and Administration in clearing up matters referred to that subcommittee which concerned his conduct as a Senator and affected the honor of the Senate and, instead, repeatedly abused the subcommittee and its members who were trying to carry out assigned duties, thereby obstructing the constitutional processes of the Senate, and that this conduct of the Senator from Wisconsin, Mr. MCCARTHY, in failing to cooperate with a Senate committee in clearing up matters affecting the honor of the Senate is contrary to senatorial traditions and"——

Mr. WATKINS. Mr. President, on behalf of the select committee, it is desired to modify the proposed committee amendment which has just been read. The modification is to strike out, on page 2, line 3, the following words:

> In failing to cooperate with a Senate committee in clearing up matters affecting the honor of the Senate.

Those words are to be deleted under direction of the committee. The committee amendment will then read:

> *Resolved,* That the Senator from Wisconsin, Mr. MCCARTHY, failed to cooperate with the Subcommittee on Privileges and Elections of the Senate Committee on Rules and Administration in clearing up matters referred to that subcommittee which concerned his conduct as a Senator and affected the honor of the Senate, and, instead, repeatedly abused the subcommittee and its members who were trying to carry out assigned duties, thereby obstructing the constitutional processes of the Senate, and that this conduct of the Senator from Wisconsin, Mr. MCCARTHY, is contrary to senatorial traditions and is hereby condemned.

The words stricken out seem to place a limitation, which was not intended, upon the subject matter which was condemned. It was intended to condemn not only the failure to cooperate, but the denunciation of the committee and the abuse of the committee. So the words I have indicated should be deleted, and the committee directs that I modify the committee amendment accordingly.

The VICE PRESIDENT. By direction of the committee, the Senator may modify the amendment, and it is so modified.

The Senator from Illinois is recognized.

Mr. DIRKSEN. Mr. President, this morning I read the text of a proposal to Members of the Senate, and I now submit it, if the Senate will bear with me a moment——

Mr. JOHNSON of Texas. Mr. President, will the Senator yield?

Mr. DIRKSEN. If the Senator will let me conclude my thought, I shall yield.

I submit my amendment as an amendment for the language in italics in section 1, and I should confess to the Senate that I am in a slightly awkward position, because, under the rule, a Senator cannot make a motion to strike and insert while another motion to strike and insert is pending. So the language I submit as an amendment will still contain the original language of Senate Resolution 301, "is hereby condemned." But if the Senate, in its good judgment, adopts the language I now submit, I shall subsequently offer an amendment to strike out the last three words in the original resolution.

Mr. JOHNSON of Texas. Mr. President, will the Senator yield?

Mr. DIRKSEN. I yield.

Mr. JOHNSON of Texas. Do I understand correctly that the proposed amendment which the Senator is now submitting is identical with the language of the proposed substitute the Senator presented to the Senate earlier today?

Mr. DIRKSEN. That is correct.

Mr. JOHNSON of Texas. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. JOHNSON of Texas. Since the language is not a substitute, but a proposed amendment to the committee amendment, each side will have 30 minutes. Is that correct?

The VICE PRESIDENT. That is correct.

Mr. WATKINS. Mr. President, under the unanimous-consent agreement, will the Chair advise the Senate who has control of the time?

The VICE PRESIDENT. The Senator from Illinois will have control of the 30 minutes on the amendment in the nature of a substitute offered by himself, and

the Senator from Utah [Mr. WATKINS] will have control of the 30 minutes in opposition to the amendment.

The Senator from Illinois is recognized for 30 minutes, but before he speaks, the clerk will state the amendment.

Mr. DIRKSEN. Mr. President, I understand my time will start to run after the amendment has been stated.

The VICE PRESIDENT. Will the Senator send his amendment to the desk?

Mr. DIRKSEN. I think it is on the desk, Mr. President.

The VICE PRESIDENT. The clerk will state the amendment.

The CHIEF CLERK. On page 1, line 5, in lieu of the matter proposed to be inserted by the committee, it is proposed to insert the following:

With respect to the report and recommendations of the select committee, a reasonable doubt exists as to the authority of the Senate to censure or condemn a Senator for language or conduct in a prior session of the Congress; that no rule presently exists under which censure or condemnation for the alleged language or conduct might be justifiably imposed; that a Senator is under no legal duty to appear before a committee on invitation and that censure was not heretofore proposed where a Senator refused to appear before a committee; that censure or condemnation, while not depriving a Senator of any privilege or prerogative, is punitive in nature and might, therefore, be considered ex post facto in character, if imposed for language or conduct in a prior Congress; that there has been no violation of senatorial tradition as evidenced by countless instances of robust and salty phraseology in Senate debate dating back to the First Congress in 1789; that there is no evidence to establish that the constitutional processes of the Senate were in fact obstructed; that the failure of the complainant Senators to raise questions of conduct on January 3, 1953, when the oath was administered to the Senator from Wisconsin [Mr. MCCARTHY], precludes a valid consideration of the charges and allegations in section 1 of the resolution reported by the select committee; that censure for the use of allegedly intemperate language in interrogating a witness does not in the light of all the circumstances involve the good faith which must be maintained between the executive and legislative branches of government; that the Congress does have the right to examine into the applicability of an Executive order or directive, especially where the internal security of the Nation may be involved; that while abusive or intemperate language is to be deplored, it does not in the light of precedent warrant formal censure or condemnation as proposed in sections 1 and 2 of the resolution reported by the select committee.

Mr. DIRKSEN. Mr. President, what the substitute really contemplates is a general denial of the allegations and charges that have been made, and is in direct contravention of that which has been reported by the select committee.

As I indicated to the Senate this morning, this is no compromise. I use the expression "compromise" as being the difference between a sound spanking and a little spanking. If any principle were involved, I would not think of trying to compromise, nor would I do so. I believe we are dealing with a principle, and for that reason I present the language in the nature of a substitute for the language that appears in section 1 of the resolution.

Let me take a moment or two to consider the language which is before the Senate as submitted by the select committee. If one breaks down all the charges and allegations, he will find that the first one is that there was a failure on the part of the junior Senator from Wisconsin to cooperate.

I simply ask this question, Mr. President: Is there a duty to cooperate? Is there a rule under which a Senator must cooperate? I remind the Senate that if it approves language of that kind, it will be a weapon which could be a weapon of tyranny, indeed, at some time in the future, for if a Senator were to submit a resolution of censure against the junior Senator from Illinois, on the ground that he had failed to cooperate, think what could be done with such a weapon. Certainly, Mr. President, I would be the last to approve such language in a resolution.

The second charge is that matters affecting the conduct of the junior Senator from Wisconsin remain uncleared. We should think a little of the background in that connection. What was involved? An expulsion resolution was submitted by one Member of the Senate. Suppose a Member of this body were to offer a resolution calling for expulsion of the junior Senator from Illinois. Must I respond? Must I go before the committee? Does it depend upon how grave the charges are or how extreme the allegations may be? Because 1 of 96 Members of the Senate submits such a resolution—which of course is his right—is it the duty of the Senator who is the subject of the resolution to appear before the committee, open his books, and let the committee examine his income tax or anything else which might be involved? I doubt it very much, Mr. President; that would take the rule rather far.

There was another case, that of Senator Robert M. La Follette, Sr., when he failed to appear before the same committee, the Committee on Privileges and Elections. That was at a time when Senator La Follette had used, in addressing Senator Kellogg, of Minnesota, language as extreme as any I have ever heard either in or out of the Senate insofar as dialog in the course of debate is concerned. Is there, then, a duty, when a Senator submits such a resolution, for the Senator who is the subject of the resolution to go before a committee of this body and there give testimony?

The third charge is that it has obstructed the constitutional, legislative processes. Could not the committee function, Mr. President? Was there something physically involved that interdicted or arrested the committee's actions? Did not the committee have the power to proceed? If we approve such an allegation, I ask the Members of the Senate this question: What, then, will Senators say about a filibuster? It is a designed and deliberated effort to place a barricade in the way of the legislative process. If and when, at a subsequent time, a filibuster occurs in the Senate, may we not, notwithstanding the transparent reasons which are given for it, submit a resolution of censure because the filibuster obstructs the constitutional, legislative process? What do Senators say about a Member who deliberately absents himself from a committee, so there cannot be a quorum with which to conduct the business of the committee? That would be deliberate. If that could be only partially established, would it be an invitation for the submission of a resolution of censure, on the ground that such action obstructed the constitutional, legislative process?

Finally, Mr. President, in the first section there is a recital that the subcommittee and its members have been abused. Senator Kellogg, of Minnesota, once submitted in this body a resolution to expel Senator Robert Marion La Follette, Sr., from this body, on the ground of sedition and disloyalty. The resolution was referred to the Committee on Privileges and Elections; I believe that under the Senate's rules at that time, that committee was then a standing committee, rather than a subcommittee of the Committee on Rules and Administration, as is the case today. Was there any proposal to censure Senator La Follette because he failed to appear before the committee? Not only did he not appear before the committee, but he abused the committee. I say in all conscience that if Senators are to make a rule, then let them make it carefully and deliberately, and let it be a rule that will define and delimit the decorum and prescribed duties under which Senators rest.

So much, then, for the first section of the resolution.

With respect to section 2 of the resolution, let me say it is alleged or charged that the junior Senator from Wisconsin intemperately abused a witness. On what date did the abuse occur? It occurred on February 18, 1954. What were the circumstances? There is some background to all this, Mr. President. In the first place, at that time the entire Peress record was before the Committee on Government Operations. In the second place, there was the frustration which went along with the Fort Monmouth investigation, particularly inasmuch as the operations at Fort Monmouth constituted one of the most sensitive operations of any Government agency.

The first "look-see" at that operation occurred in October 1953. Directly on the heels of it came what? There came an effort on the part of the junior Senator from Wisconsin to bring before the Committee on Government Operations the members of the Army loyalty board panels, put them under oath, and make them testify. That is when the general counsel of the Army appeared in my office with a friend of mine. Strange that he never came there before. But he came then, when the subpenas were being prepared for the Army loyalty board. Why? First, to attempt to persuade me that I should intrude and should seek to stop it; second, to interject a threat—because, Mr. President, it was that afternoon in January 1954, at 6 o'clock in the evening, when I first heard about the Cohn-Schine controversy.

The next morning I appeared in the office of the junior Senator from Wisconsin, and I said to him, "What is all this about?" Then I discovered that already there was in the formative stage,

at least, a case which was going to be submitted, in which undue influence would be charged on the part of the junior Senator from Wisconsin and his staff, in behalf of Private Schine. Those were some of the details which occurred at the time. It was the period when brain-washing was under way. We were quite familiar with it.

To this next statement I must come with some caution; and I do. If the staff memorandum of the committee is correct, then on the 1st of April, the day before Peress was discharged, we find that the staff memorandum shows that General Zwicker called in Peress and urged him to get out of the Army without delay. I can only take the words I find in the staff memorandum, right or wrong. In any event, all those things were a part of the circumstances.

So, Mr. President, what would you do under the circumstances, as you learn them when you go back and read the record? I listened with interest to my esteemed friend, the Senator from Colorado [Mr. JOHNSON], who said General Zwicker was such a gracious witness and such a tractable witness; and that is entirely possible. Frankly, I do not know General Zwicker. But no doubt there was an electric atmosphere in the courtroom in New York on the afternoon of February 18. I do not believe that words can capture it, finally. There was something in the atmosphere which developed some provocation; and perhaps restraints and inhibitions fell by the wayside, and perhaps the interrogation was slightly on the rough side. But let us consider all the circumstances which developed provocation. It may be said that provocation is no justification. That may be.

But what does the select committee say about provocation? I read now from page 46 of the report of the committee, and at this point the reference is to the Senator from Vermont [Mr. FLANDERS]:

> The evidence shows that on June 11, 1954, Senator FLANDERS walked into the Senate caucus room where Senator MCCARTHY was testifying before a vast television audience in the Army-McCarthy hearings, and unexpectedly gave Senator MCCARTHY notice of an intended speech attacking Senator MCCARTHY which he proposed forthwith to deliver on the Senate floor; that shortly thereafter Senator MCCARTHY was asked by the press to comment on Senator FLANDERS' intended speech; that Senator MCCARTHY thereupon made this remark concerning Senator FLANDERS, "I think they should get a man with a net and take him to a good quiet place"; and that on occasions prior to that time Senator FLANDERS made provocative speeches in respect to Senator MCCARTHY on the Senate floor.

What does the committee say by way of conclusion?

> The remarks of Senator MCCARTHY concerning Senator FLANDERS were highly improper. The committee finds, however, that they were induced by Senator FLANDERS' conduct in respect to Senator MCCARTHY in the Senate caucus room, and in delivering provocative speeches concerning Senator MCCARTHY on the Senate floor. For these reasons, the committee concludes the remarks with reference to Senator FLANDERS do not constitute a basis for censure.

Are we to have one rule for the distinguished Senator from Vermont and another rule for the distinguished junior Senator from Wisconsin? I have read the words of the committee. They recite provocation as a justification or excuse. Are we to make fish of one and fowl of the other at the present time?

Those are the circumstances involved in section 2 of the resolution. So I go back to the substitute. I say, fairly, that in my mind there is a reasonable doubt concerning our authority to censure for conduct and words in a prior session of the Senate. If there is a rule under which censure and condemnation are to be imposed, it has not come to my attention. In fact, we are in the process of making a rule by the action this body may take. I know of no law which would require or impose a duty to go before a Senate committee when a single Senator introduces a resolution to expel another Senator from the Senate. I am not so sure that I would have gone before that committee under those circumstances.

While such action would not deprive the Senator of his seat in the Senate, or of his prerogatives and privileges, and while it would not remove him from his committees, certainly it must be the judgment of this body that when a man who is a Member is publicly censured, that is a punishment which may have a tremendous impact upon his political future. It must have an impact upon the being of the man himself, for when he goes about in the land it will be said, "There goes Senator MCCARTHY. His peers, his colleagues, before the whole wide world, censured him formally for words and conduct." If that is not punishment, then I never saw any punishment.

So, the resolution relating, as it does, to actions which antedated this Congress, is there not a reasonable doubt whether we have authority to censure, and secondly, whether such punishment would not be ex post facto in nature.

Earlier in the day I recited at some length some of the very robust phraseology which has been used on the floor of the Senate since 1789. So when we speak of tradition, let us look at the entire curtain of tradition, and everything that is in it. I did not recite nearly all the examples I have before me. I might have read a great many which were far more rugged than the ones I recited earlier. But when we talk about tradition and precedent, there is the record. It cannot be sponged out. So shall we say, in the light of all that, that the rather rugged language of the junior Senator from Wisconsin was a departure from tradition? I think not. I see nothing to establish that there was an obstruction of the constitutional process.

Had there been a subpena, had there been a real demand, had there been any insistence upon his appearance, the case might have been different. As a matter of fact, there was only an invitation. It is one thing to invite a person, and another to demand his presence. I am not sure whether there was a personal invitation, man to man, whether it was over the telephone, or whether it was in the cold print of a formal letter on Senate stationery. But it seems to me that in that respect sometimes we are pretty derelict in our duty.

I ask every Senator who is in this Chamber today, How many times has any Member of the Senate sat down with JOE MCCARTHY and said, "Look, sonny boy, your language is a little rugged. We think you ought to get back on the track"?

It is so easy to say, "Joe is my friend." The test of friendship is not to call him on the telephone or send him a letter. The test of friendship in this club, in my judgment, is to sit with him. How many have sat with him? Have we been a little derelict in our human duty? Had the milk of human kindness been a little sweeter, perhaps all this would not have happened.

Oh, I know what the answer is. It is so simple. "He is of lawful age. He was elected by the people to the United States Senate. He is a man of responsibility. Must we take him by the hand?"

I do not know how others estimate the situation, but when we say, "He is not my charge," there comes ringing down the eternal corridor the language of a man who cowered before the vengeance of the Voice from above, which asked "Where is Abel, thy brother?" He answered "I know not. Am I my brother's keeper?"

To what extent have we failed? To what extent has our failure made possible the procedure in which we are engaged at the present time? If there is a doubt I wish to resolve it on the side of the junior Senator from Wisconsin. I do not wish, by my vote, to inscribe upon the records of this body that, under all the circumstances, I lent my voice and my vote to support public censure.

In the notebook of Leonardo da Vinci there is a wonderful and redeeming line. He said:

> Reprove thy friend in secret, and praise him in public.

That sentiment was so worthy that it has endured throughout the centuries. Some would reverse it this afternoon. They would say, contrary to da Vinci, "Reprove thy friend where all can see and hear, and praise him in private."

I remember what the distinguished Senator from Utah [Mr. BENNETT] said in a very fine speech several weeks ago. He said, "But for the grace of God, there go I." So I shall be pretty circumspect before I place the public brand upon a Member of this club; for when the door is opened and a precedent is established, then what? Then, in all conscience, we may well ask, Who will be next?

We shall not all be here too long. As John Maynard Keynes said as the foundation for his amazing economic philosophy, "In the long run we shall all be dead." He would like to take back that line, but that is the foundation of Keynes' economic philosophy. However, it is correct. By the fortuities of time and political accident many of these seats will be rendered vacant. We shall be gone. Someone else will be here. But the precedent will also be here.

Then what? How restrained will Senators be in the future, in the light of such a precedent? Will the resolution of

censure then become a weapon of despotism, of tyranny, of assault upon Members of this body, a weapon really to obstruct the constitutional processes and to impair the functions of the greatest free system of government on God's footstool?

One thing further, if time permits. I listened with a great deal of interest to the distinguished Senator from Mississippi [Mr. STENNIS]. I do not see him in the Chamber at the moment. Perhaps he is in the cloakroom. The other day he placed the issue on the moral ground. He said that a moral issue was involved. It could be. However, let us look at the record. Since 1949 a Member of the Senate has been under harassment. For 5 years he has been under abuse. For 5 years he has been vilified. I do not know how many reproaches there are in this little portfolio. They come to the office every day.

As I pointed out once before, the abuse and vilification come not only from organizations, but also from editorial columns.

How long can a man stand up against that sort of thing before finally some restraint breaks? Then, when it takes the form of what seems to us like abusive and intemperate language, that is the other side.

I do not for a moment defend language that is intemperate and abusive. However, I do say that under all the circumstances the benefit of the doubt is on the side of the junior Senator from Wisconsin, and that forbearance rather than passion and hate should be the rule as we march up to the judgment hour.

I could go back and recite the whole record for the past 5 years. There would be no point in it. But when all is said and done, who can deny that the junior Senator from Wisconsin has alerted our country to the existence of an evil in a manner in which it could not have been alerted in any other way?

I should like to say this, too: What will be gained by all this? Is it the desire to humiliate the Senator? Is it the desire to humble him? If it were only possible to sit in the cloisters of silence and commune with one's thoughts on the day after sentence is pronounced, if such it be, I wonder what each Senator's estimate and evaluation of that judgment would be.

Throughout this far-flung country—even though this be collateral to the issue before the Senate—there will be literally millions of people who will think that all we have done has been in the interest of taking a little bloody spot off the Senate rule book, and that we have humiliated the man who has stood up as a crusader for a free America.

Where will we find another? Who will venture his neck on the block?

MARTIN DIES went the way. I served with him in the House for a long time. I remember how he used to sit in the cloakroom and tell me all the threats that had come to him and his family. They finally ran him out of public life.

When a man stands up with his chin in the air, even as God told Ezekiel to keep his chin up, what happens to him? Because there may have been a little license, or because there may have been a little departure from good taste, his own colleagues would now reprove him before the world and before his country.

I have no stomach for it, believe me, Mr. President.

After a while I shall discuss the matter a little further, not that I think my feeble words will change a vote in this great body. I will do it because I want to make the record, so that in the days that lie ahead others, too, shall see. We will pass from this scene, as others have passed, but the record will remain after us.

I commend to all Senators the language of the substitute for section 1. I think it is reasonable. I think there is a reasonable doubt. I know of the existence of no law or rule that would have required the Senator to appear before the committee. I believe the whole doubt is on his side. Therefore, I commend to Senators favorable consideration for the substitute language before the Senate.

The VICE PRESIDENT. The Senator from Illinois has 4 minutes remaining. The Senator from Utah has 28 minutes remaining.

Mr. WATKINS. Mr. President, I yield 10 minutes to the Senator from North Carolina [Mr. ERVIN].

Mr. ERVIN. Mr. President, the Senate has been repeatedly told that there is no rule by which the Senate can censure Senator MCCARTHY. We have had called to our attention certain precedents of the House and of the Senate in exclusion cases, which are governed by the provision of section 5, article I, of the Constitution, to the effect that each House shall be the judge of the qualifications of its own Members.

Manifestly, none of the precedents of the Senate or of the House relating to exclusion cases have any application to the matter before us, because the matter we are considering falls under a different constitutional provision.

We have also had called to our attention certain decisions of the courts in cases in which the House undertook to deal with outsiders who were not Members of the House.

Manifestly, the House has no judicial power over non-Members of the House, and precedents dealing with the conduct of persons who are not Members of Congress have nothing whatever to do with the subject before the Senate.

We have also had precedents of the House and of the Senate in expulsion cases called to our attention. Such cases are governed by the following provision in section 5, article I, of the Constitution:

> Each House may, with the concurrence of two-thirds, expel a Member.

Manifestly, those precedents which deal with expulsion cases have nothing to do with the subject pending before the Senate. That subject is based on a rule which was put into plain language 2 years before the Constitution of the United States took effect. We have a rule which is expressed in the Constitution in the plainest of language that could be devised to express it and its purpose.

The rule goes back to the beginning of our Government. The Constitution of the United States, in many of its provisions, is self-executing. It requires no act of Congress to give them validity. The Constitution of the United States was penned by the Constitutional Convention of 1787. When the requisite number of States ratified that instrument, there was breathed into those dead words the breath of life, and the Constitution of the United States became the greatest living instrument of government on the face of the earth.

This is the rule which applies in the pending case:

> Each House may punish its Members for disorderly behavior.

The suggestion is made that the Senate is impotent to act, because no precedent has been established for such action.

As I said in my argument the other day, we ought to thank God that there is no precedent for the matter now pending before the Senate.

We have here a provision of the Constitution which is not to be interpreted by the courts of this land, but is to be interpreted by the Senate.

When the Constitution of the United States says in express words that each House—and that is the Senate in this case—may punish its Members for disorderly behavior, the Constitution impliedly says that there is a rule which applies to every Member of the Senate, and that rule is that each Member of the Senate shall refrain from disorderly behavior.

That is the rule which the select committee says, by its report, the junior Senator from Wisconsin has violated.

Let us see, Mr. President. Has he been guilty of disorderly behavior? When a committee of the Senate, acting under the orders of the Senate itself, which orders were manifested by a vote of 60 to 0 establishing its jurisdiction, makes the inquiry which it is directed by the Senate to make, we have this kind of situation.

It is not a thing that happened on the spur of the moment. The evidence is not contradicted by any living soul, and it is in the words of the junior Senator from Wisconsin himself.

In the fall of 1951, when the committee undertook to investigate a matter which the subcommittee had the power to investigate, the junior Senator from Wisconsin started to slander the committee, and he persisted in that conduct from the fall of 1951 up until December 1952. We have before us a Senator whose conduct is being investigated, saying that the members of that committee were stealing the taxpayers' money for partisan political purposes. We have a Member of the Senate saying that the committee which is acting for the Senate is dishonest, and that he will not have "truck" with a dishonest Senate committee. He also made the same charge in respect to the subcommittee he has made throughout the length and breadth of the country concerning the select

committee, namely, that any committee which asks him to give an account of his conduct in any respect is an aider and abettor of the Communist Party. Can anyone imagine anything that is more disorderly than for a Senator of the United States to try to discredit a Senate committee in the eyes of the American people for the purpose of keeping himself from making some revelations which he was asked to make? It was not something done on the spur of the moment.

Mr. President, when the Founders of this Republic wrote the Constitution and gave to the Senate of the United States the power in express words to punish its Members for disorderly behavior, they impliedly said that every Senator must refrain from disorderly behavior. No one contradicts the findings of fact in this case, and if they do not show disorderly behavior, I venture the assertion that there is no mind with a sufficiently vivid imagination to imagine what disorderly behavior might be.

It has been said that his behavior did not obstruct the constitutional processes of the Senate. Yet, Mr. President, it is the uncontradicted evidence, most of it the words of the junior Senator from Wisconsin himself, in his letters to the Subcommittee on Privileges and Elections, that for 14 months or more the committee was unable to function; that it never did do what the Senate by a vote of 60 to 0 said it should do. If that is not obstructing the processes of the Senate, I do not know what we may call obstructing the processes of the Senate.

We are told that the junior Senator from Wisconsin is a great champion of the American people against communism, and yet he says to us that he expects to be censured. He does not add whether it is because he has a feeling of guilt or whether he considers that all the Members of the Senate are handmaidens of the Communist Party. But instead of making a defense on the merits, he spends his time and his energy, and many of his friends join him, none of whom are Members of the Senate, in trying to destroy whatever faith the American people still have in the Senate of the United States.

If that is not disorderly conduct, then God help this country when a Senator does become guilty of disorderly conduct.

Mr. WATKINS. Mr. President, I yield myself 15 minutes.

The VICE PRESIDENT. The Senator from Utah is recognized for 15 minutes.

Mr. WATKINS. Mr. President, I have listened with a great deal of admiration to the address of my very able friend the Senator from Illinois [Mr. DIRKSEN]. He is always appealing, and his speeches are always moving. I wish I could agree 100 percent with all his sentiments and his deductions from the evidence in this matter. But I cannot, because I think the facts and the law are against him. It is all well and good, as we approach the Christmas time, to talk about friendly feelings. We recognized that during the summer when we were holding hearings. We tried to extend the olive branch to our young friend from Wisconsin. It was indicated to him that he might possibly have done wrong, that he might have said some things he should not have said, and the opportunity was given to him to say whether he was willing to retract some of the words he had said and some of the things he had done. But there was no indication that he wanted sympathy or a helping hand extended to him. As time went on we know he rejected every effort to help him.

The Senator from South Dakota [Mr. CASE], a member of the select committee, on the floor of the Senate, during the debate, also extended his hand and indicated that the door was still open for the prodigal to come in and make some amends, but the junior Senator from Wisconsin made no effort at all to do that.

I am personally willing to forgive. That is a commandment which has been given to us. But forgiveness is based on some sort of repentance, some works meet for repentance, and I have failed to see such works up to this hour. In case of sickness, we extend our hand to any Member of the Senate. We have been accused of being club members, that we have more regard for Members of the Senate than we have for anyone else. That is not an idle tradition. There is a great bond of friendship between Members of this body, on both sides of the aisle. It is not political; it is merely human.

The committee did not go forth seeking to nail the hide of the junior Senator from Wisconsin on the barn door, as has been said in the press. We tried to carry out the directions of this body as best we could, in the light that God gave us in connection with the matters brought before us, and under the Constitution of the United States, which was our guide.

The report has been made. I cannot take the time to review the evidence. As the Senator from North Carolina [Mr. ERVIN] has just said, the record is here. The findings of fact and the testimony are completely uncontradicted. No one has sought to change the record of the facts. They are there, and they are admitted.

There has been reference made to "salty" remarks. I never regarded a salty remark as downright abuse. Someone may have been a little bit vigorous. But the committee was extending a helping hand and extending courtesy to the limit. The members were doing all they could to help the junior Senator from Wisconsin. They were not hardhearted monsters seeking his political scalp. They tried to be helpful and courteous. The Senator from Iowa [Mr. GILLETTE] talked to the junior Senator from Wisconsin on the floor of the Senate. He was in position to have daily intimate contact. But from the safety of his office the junior Senator from Wisconsin made his written appearance before the committee and utterly failed to come in for an examination, although the most serious things were being charged against him.

I have thought much about that. What would have been the legal position if he had gone before the committee? There were some 400 or 500 photostat copies of exhibits, bank records, statements, and numerous other documents. If he had gone before the committee he would have been sworn and would have been confronted with these documents. If he had denied them, and if his denial were not true, he would have faced a possible perjury charge.

If he had looked at them, examined them, and had admitted that they were true, probably he would have been in difficulty again.

So there was only one or two things left, under a circumstance of that kind. If he had gone before the committee, that would have been one thing. If he did not want to deny the documents or admit them, he would have had to do one of the most humiliating things which the junior Senator from Wisconsin could have been required to do, and that was to have claimed the protection of the fifth amendment. [Laughter.]

But he could see that. So he elected not to go. He ignored the committee, and abused them. Then, when he was charged with the abuse, his defense was to abuse every committee that was trying the matter. That was his answer to a charge of abuse. He handed out more abuse.

We tried to be kind. I should like to extend a helping hand to him now, upon a sign of repentance and willingness to get along with his colleagues.

He charged us with being "handmaidens" of communism and of being attorneys-in-fact for the Communists. He has charged us with all these things.

Let us think about it for a moment. He knows the Members of the Senate. He knows whether such statements are true or not. He knows whether or not I have been working on a subcommittee which has been investigating Communists, ever since the subcommittee was created 4 years ago. That subcommittee is the Subcommittee on Internal Security. I have held numerous hearings, and I have some acquaintance with the Communist line. I think the junior Senator from Wisconsin knows that to be so.

In spite of that, he has hurled this charge at me—not at me personally, but at me as chairman of the committee which the Senate selected as its representatives.

I wish to spend a minute or two on the Zwicker matter. Let us get a picture of what happened in that case. Was the junior Senator from Wisconsin present in his personal capacity? Oh, no. He was there as the long arm and agent of the United States Senate, to make some investigations. He had back of him the full power of this great deliberative body. Anyone who came before that committee knew that the junior Senator from Wisconsin represented the power and authority of the greatest deliberative body on earth, the United States Senate. But immediately witnesses were placed in a position of terrific disadvantage, so far as any personal debate with the junior Senator from Wisconsin was concerned.

Under these circumstances, a record was made of an executive hearing in New York City on February 18 of this year. General Zwicker, a wartime hero, a man who had risked his life for his country,

was brought before this committee. He told the committee in almost the very first words opening the examination, that he was under orders and could not say what he would like to say. He was the very person who had given the name of Peress to the investigators for Senator McCarthy's committee. General Zwicker explained all of that when he was examined. He did not object to the examination.

Senators who are acting as examiners, representing the United States Senate, can be vigorous in the questions they ask. But when one holding the authority, not as an individual, but as a Senator or as a chairman, representing a great committee, goes to the point not only of conducting an investigation and of asking questions, but then finally of passing judgment upon the witnesses who appear before him at a great disadvantage, he attempts to exercise a right which was never given to the Senate by the Constitution of this country. The Senate was given the power to investigate and to get the facts for the purpose of enacting legislation. It was not given the power to try men, damn them, and blast them before the whole world.

That is precisely what the junior Senator from Wisconsin did. He was not satisfied with the questions he asked and the remarks he made; he also called in the representatives of the press within a few minutes afterward and gave them a résumé of what had occurred in the executive hearing. This, as well as I can ascertain, was in violation of the rules of the subcommittee, which required that that could not be done without the consent of a majority of the members of the committee. The junior Senator from Wisconsin did not release a transcript of the hearings, because it had not yet been made, but he issued a résumé.

Mr. President, we are very jealous of our own honor and our own reputations. But what are we to say of those persons who are called before the committees, particularly a man by the name of Zwicker. The fact is uncontradicted that he was not responsible for either the promotion or the honorable dismissal of Dr. Peress. He was not responsible for those actions.

It was brought to the attention of the junior Senator from Wisconsin that the general was acting under orders. In spite of that, because the junior Senator from Wisconsin was having some kind of feud with the Army, with some of the higher-ups, he let loose on General Zwicker and blasted him. He inferred that General Zwicker was not fit to wear the uniform of a general. I cannot give the exact words. The final shot of the junior Senator from Wisconsin was that he was going to call General Zwicker back, to give the people of the United States an idea of what kind of Army officers we have.

If Senators feel like voting to protect the honor and dignity of the Senate when it comes to a consideration of its own Members, let us remember that the ordinary citizen of the United States does not wear the uniform of a general. Any citizen of the United States has a right to claim the protection of the fifth amendment, and we do not have any right to damn him simply because he claims a right which the Constitution gives him. That is the position of the committee; at least, it is my position.

In bringing this matter before the Senate, we tried to discharge a duty to defend and protect the Senate, which was created by the Constitution. The Constitution is designed to protect all our institutions—the Presidency, the Supreme Court, and the Senate and House of Representatives. The Constitution as a written document, as mere words, was not a living force; but when, under the authority of the Constitution, there were created a Senate and a House of Representatives, the Presidency, and the Supreme Court, the Constitution was made a living document. When we raise our right hands to Almighty God and say that we will support and defend the Constitution, we mean all our institutions, as well.

As has been pointed out very well during the debate, attacks on the Senate, such as the attack in which it was said that the Senate was engaged in a "lynching bee," are as false as they are vicious. We know that. We are the witnesses. We know what kind of lynching bee has been held. Long-drawn-out procedures have been followed. Everything has been done in accordance with patterns set in the past to protect the rights of the person accused. Yet, nevertheless, an attack was made upon the Senate which was calculated to bring it into disrepute before the people of the country and of the entire world.

Mr. President, we are living in perilous times, when our institutions are under attack from every source. We cannot afford by condoning what is referred to as "salty" language, if we wish to describe it mildly as salty language, or by adjectives of that kind, to establish a line of precedents that will plague us forever, if adopted.

What precedent will we set? We shall be saying, if we fail to censure, that the conduct of the junior Senator from Wisconsin with reference to the Gillette-Hennings subcommittee was all right, because that matter has definitely been brought now to our attention and as it relates to the conduct of the junior Senator from Wisconsin. We shall be saying that it is perfectly all right for any chairman or Senator, or Member of the House of Representatives, to run a committee the way the McCarthy committee has been run; that it is all right to damn people; that it is all right to ask all the questions one wishes to ask in a very vigorous way, and to pass judgment as well. We shall be saying that such conduct is all right.

What is there to restrain anyone in the future, if the Senate now sets a precedent by saying that this was done under the peculiar facts in this case up and down the line, and that the actions are not censurable. Can Senators imagine anything that will be censurable in the future?

I say to my Republican colleagues that this is not a partisan matter. I think it is a matter of defending what the Constitution has established. In my opinion, the Constitution was ordained of God and framed by inspired men. It is our solemn duty, under our oath of office, to maintain it. We can devise all the excuses we want to. But we face a situation now, and we shall have to make a decision. It is said precedents are bad, if we establish them. Have Senators considered what the committee said? Have they measured them and studied the statements? Is there a single thing which the committee has recommended that Senators would not be willing to obey in the future?

In my opinion, any gentleman, any person, with a high standard of ethics, whether he be in the United States Senate or not, will follow a proper course; the other kind need rules. As Elbert Hubbard once said, "Fences are made for those who cannot fly."

I say to my colleagues that I am not asking for any personal vindication in this matter. I am unimportant. I have reached such an age that perhaps I may never again be a candidate for office. Nobody knows what may happen in the future, but I am fighting for what I have believed in all my life with respect to this Government, that its standards cannot be too high, and that when a man walks within the walls of this Chamber and becomes a Member of the United States Senate, he takes on himself certain obligations. One of them is to conduct himself as a Senator should conduct himself. He should not be guilty of disorderly behavior. He should do none of the things which would bring this body into disrepute, and make it of lesser esteem before our citizens and the peoples of the world.

A vote for censure now is not going to take away any of the rights of Senator McCarthy, but it is going to say to him and to the whole world, "We do not approve of your conduct in the peculiar circumstances of this case." It does not go beyond that. If one wishes to, he may treat as dictum everything in the report, but the fundamental facts will still be before him. We can vote for censure and say to the world, and I hope my Republican colleagues will join in saying to the world, "This Senate's dignity and honor must be upheld, and each Senator must do his part."

The VICE PRESIDENT. The Senator from Illinois has 4 minutes remaining, and the Senator from Utah has 3 minutes remaining.

Mr. DIRKSEN. Mr. President, I yield 1 minute to the distinguished Senator from South Dakota [Mr. Mundt].

Mr. MUNDT. Mr. President, I take this time only to make an announcement, because of the parliamentary situation in which we find ourselves. I announced yesterday in the course of my speech that I thought there was available to the Senate a third avenue of approach whereby we could do something constructive rather than do something by way of a negative approach in connection with our existing problem.

I wish to announce at this time that if the substitute offered by the Senator from Illinois shall be adopted, I shall then move to substitute for the three remaining words in the first paragraph the following language, after reciting the

fact that the Senate disapproves of intemperate statements made by the junior Senator from Wisconsin, or similar statements by other Senators:

And it is further declared to be the sense of the Senate that the Senate Committee on Rules and Administration should conduct hearings and report to the Senate, early in the first session of the 84th Congress, recommendations for any desirable changes in the rules governing committee hearing witnesses and recommendations for a code of proper and becoming conduct to apply to all Members of the Senate insofar as their contacts with fellow Senators are concerned and that such recommendations should include provisions for appropriate punishment by the Senate of any infractions of such code of conduct which may occur after its adoption.

Mr. President, I make that announcement at this time because if the amendment in the nature of a substitute offered by the Senator from Illinois is adopted, in lieu of censureship I shall move to substitute for the final three words the language I have read. If the amendment of the Senator from Illinois is not adopted, as soon as I can obtain the floor I shall offer as an independent provision language I have read.

Mr. DIRKSEN. Mr. President, first let me say to my distinguished friend from North Carolina that nobody ever questioned the jurisdiction of the so-called Gillette subcommittee. I have never understood that any question has been raised about the right of the junior Senator from Wisconsin to appear or not appear, but it seems to me that it is sought to condemn or censure him because he elected not to appear, which was his right.

When it comes to dealing with the subcommittee, I go back to the La Follette case, in which a resolution was introduced to expel the senior La Follette on the ground of disloyalty and sedition. Senator La Follette would not appear. He would not cooperate. No one ever thought to censure him.

When it comes to words and conduct, after all, our evaluation of such matters is not in the field of absolutes. If there be any doubt about it, Senators, listen to me for a moment. I shall read 25 or 30 words, from a speech which was delivered on the 28th of September, 1948, in Oklahoma City. I read one paragraph:

The fact of the matter is that the Republican Party is the unwitting ally of the Communists in this country. That is clearly shown in the election record of the Communist Party.

Who do my colleagues think said that? The Honorable Harry Truman, then President of the United States, at Oklahoma City. When we deal with words, when we deal with conduct, remember that there are no absolutes in that field.

If time permits, I should like to refer to certain language used toward witnesses. I now quote from the record of hearings of the Committee on Armed Services in December 1950, on a nomination. A Senator said:

I think this witness is entirely irresponsible. I don't think that her testimony is of any value to this committee because I question the mental stability of this witness, and I don't know why members of the committee should have to sit here and listen to a witness whose irresponsibility I think can be so clearly psychiatrically established as this witness.

Who said it? The distinguished Senator from Oregon, WAYNE MORSE. The time was when? December 11, 1950.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. DIRKSEN. I should now like to read from a letter addressed to the Committee on Armed Services.

The VICE PRESIDENT. The time of the Senator from Illinois has expired.

Mr. DIRKSEN. Mr. President, will the Senator from Utah yield me 30 seconds?

Mr. WATKINS. I yield the Senator 30 seconds.

Mr. DIRKSEN. I come to the last paragraph:

To sum up, it is my considered opinion based on close observation, that Mrs. Shearon is an hysterical, psychopathic, and completely untrustworthy individual whose testimony is deserving of absolutely no credence whatsoever.

Who said that? The honorable JAMES E. MURRAY, a Member of the Senate, in December 1950. There are no absolutes in this field.

Mr. MORSE. Mr. President, a point of inquiry. Was the Senator from Utah yielding 30 seconds to me or to the Senator from Illinois?

Mr. WATKINS. Mr. President, I now yield 30 seconds to the Senator from Oregon.

Mr. MORSE. Mr. President, if the Senator from Illinois will go into the record of the Committee on Armed Services, he will find that an overwhelming majority of the committee agreed with my observation, and the testimony of that witness before the Committee on Armed Services was highly discounted by the committee because of the obvious instability which the witness demonstrated at the hearing.

I am perfectly willing to abide by the language I used on that occasion, because it was highly circumspect and proper under the circumstances.

Mr. DIRKSEN. Does that change the situation? Not one bit.

Mr. MORSE. Under the circumstances based upon the record of the hearing, it makes my language highly proper and highly temperate.

The VICE PRESIDENT. The Senator from Utah has 1 minute remaining to him.

Mr. WATKINS. Mr. President, I yield back my time. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. WELKER. Mr. President——

The VICE PRESIDENT. For what purpose does the Senator rise?

Mr. DOUGLAS. Mr. President, a parliamentary inquiry.

Mr. WELKER. Mr. President, I move to strike out section 1 of the first resolution of censure.

Mr. WATKINS. Mr. President, a point of order. The motion is out of order.

The VICE PRESIDENT. A motion to strike is not in order at this point.

Mr. WELKER. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from Idaho will state it.

Mr. WELKER. Will the Parliamentarian now advise me, as he did a moment ago, when, if ever, a motion to strike will be in order?

The VICE PRESIDENT. Such a motion will be in order when the question before the Senate is on agreeing to the committee amendment.

At this time the question before the Senate is on agreeing to the amendment of the Senator from Illinois [Mr. DIRKSEN] to the first committee amendment; and the vote on that question will come first.

Mr. WELKER. Mr. President, a further parliamentary inquiry.

The VICE PRESIDENT. The Senator from Idaho will state it.

Mr. WELKER. In other words, was I dilatory in making my motion?

The VICE PRESIDENT. No. The Senator from Idaho will have an opportunity to make his motion in the event the pending amendment to the first committee amendment is rejected. In the event the pending amendment to the committee amendment does not prevail, the Senator from Idaho will have an opportunity to make his motion.

Mr. DOUGLAS. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from Illinois will state it.

Mr. DOUGLAS. May the pending amendment to the committee amendment be read at this time?

The VICE PRESIDENT. Without objection, the pending amendment, submitted by the Senator from Illinois [Mr. DIRKSEN], to the committee amendment will be stated.

The LEGISLATIVE CLERK. On page 1, line 1, in lieu of the language proposed to be inserted by the committee, it is proposed to insert the following:

With respect to the report and recommendations of the select committee, a reasonable doubt exists as to the authority of the Senate to censure or condemn a Senator for language or conduct in a prior session of the Congress; that no rule presently exists under which censure or condemnation for the alleged language or conduct might be justifiably imposed; that a Senator is under no legal duty to appear before a committee on invitation and that censure was not heretofore proposed where a Senator refused to appear before a committee; that censure or condemnation while not depriving a Senator of any privilege or prerogative is punitive in nature and might, therefore, be considered ex post facto in character, if imposed for language or conduct in a prior Congress; that there has been no violation of senatorial tradition as evidenced by countless instances of robust and salty phraseology in Senate debate dating back to the First Congress in 1789; that there is no evidence to establish that the constitutional process of the Senate were in fact obstructed; that the failure of the complainant Senators to raise questions of conduct on January 3, 1953, when the oath was administered to the Senator from Wisconsin [Mr. MCCARTHY] precludes a valid consideration of the charges and allegations in section 1 of the resolution reported by the select committee; that censure for the use of allegedly intemperate language in interrogating a witness does not in the light of all the circumstances involve the good faith which must be maintained between the executive and legislative branches of Government; that the Congress

does have the right to examine into the applicability of an Executive order or directive especially where the internal security of the Nation may be involved; that while abusive or intemperate language is to be deplored, it does not in the light of precedent warrant formal censure or condemnation as proposed in sections 1 and 2 of the resolution reported by the select committee.

Mr. DANIEL of Texas. Mr. President, I ask unanimous consent to have printed at this point in the RECORD remarks prepared by me on the pending question.

The VICE PRESIDENT. Is there objection?

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR DANIEL OF TEXAS

THE CENSURE RESOLUTION

On July 31, when the original resolution of censure (S. Res. 301) by the Senator from Vermont [Mr. FLANDERS] was pending, I discussed the judicial nature of this proceeding and urged that the general standards of fairness and justice to the accused should be applied. I objected to consideration of the resolution without specifying the charges and without giving both the accusers and the accused an opportunity to develop the evidence.

Recognizing that it sits in such matters in a quasi-judicial capacity, the Senate referred the original resolution and a total of 46 charges to its select committee, in order that the committee might hear the evidence, report its findings, and make its recommendations. In this work the committee has acted in a capacity resembling that of special masters appointed by a court to hear the evidence and the law and to report back with recommendations, in order that the court might then consider the evidence, the law, and the recommendations in arriving at a final judgment.

The committee has performed its labors and reported its findings and recommendations. The Senate, in considering its final judgment, is not limited to the evidence adduced, the findings, or the recommendations of its committee. It has heard additional evidence in these debates and additional arguments. At this point no one can truthfully say that the standards of American justice have not been applied to this proceeding. The committee has performed its arduous and unsought task with order, dispatch, and ability, and the Senate has patiently heard all evidence and arguments which any Senator has sought to offer either for or against the junior Senator from Wisconsin [Mr. MCCARTHY].

The committee, after considering the 46 specific charges leveled against Senator MCCARTHY, rejected 33 of these charges and consolidated the balance into 2 counts upon which it has recommended censure. It would seem that this action alone, reducing the total charges from 46 to 2, answers the allegations of partiality and prejudice which have been leveled at the committee composed of 3 distinguished Members of the Senate from each side of the aisle.

Unless the Senate itself adds additional counts to the censure resolution, the only questions are (1) whether the Senator from Wisconsin [Mr. MCCARTHY] should be censured for abuse of, and failure to cooperate with, a committee assigned by the Senate to investigate certain of his actions wholly unconnected with his fight against communism, and (2) whether Senator MCCARTHY should be censured for alleged abusive treatment of a witness, General Zwicker, on cross-examination.

True significance of the resolution

Neither of these questions concerns an approval or disapproval of the aims and objectives of Senator MCCARTHY's fight against communism. Neither calls for termination or continuation of our committees' investigation of communism and subversives. The questions should be decided in a judicial manner in accordance with the evidence and the law and not because of any other considerations. My decision and this discussion shall be based solely upon the evidence and the law relating to these two questions now presented in the censure resolution, except that I must urge that the Senate take affirmative action to let it be known that the real meaning of this resolution is limited to the specified charges and that it has no other significance.

Rightly or wrongly, these two isolated allegations relating to the official conduct of Senator MCCARTHY have been represented to the American people as being decisive of the attitude of the Senate with reference to communism and the continued investigation of subversion. Some very sincere people have been misled to believe that censure of any act or conduct of Senator MCCARTHY would amount to a vote to end the investigative powers of Congress. Others have been led to believe that it would be a victory for communism or an indication that the Senate has become "soft" on subversives. Unfortunate as these impressions may be, their existence cannot be ignored.

Proposed amendment

Hence the Senate is faced not only with the problem of protecting its decorum, honor, and dignity, but with the additional problem of doing so in a manner which will preserve inviolate its investigative powers and encourage continued exposure and riddance of subversive elements in our Government. By a proper amendment it seems to me that the Senate can discharge its responsibility with respect to its own procedures in such a manner that no doubt will be left in the public mind about this body's abhorrence of communism and subversion and its intention to continue to employ the full extent of its investigative powers in exposing and ridding this country of communism and subversive elements in our Government.

In short, I should like to see this resolution amended so that it will furnish no comfort to the Communists or any others who support the resolution because of their hatred for and desire to see a fighter of communism embarrassed and censured. I would prefer their opposition to the resolution. It should be amended so that no one can falsely accuse the Senate of quitting its fight against subversion or of being influenced to censure one of its Members for any reason other than what is specified in the count or counts finally adopted. For this purpose, I have proposed the following amendment to be added as the last paragraph of the resolution:

"Recognizing that the Communist Party of the United States is a part of the international Communist conspiracy against the United States and all democratic forms of government, the Senate commends all Members of Congress and all committees to the extent that they have contributed to the exposure of this deadly menace. It is the sense of the Senate that its appropriate committees shall continue diligently and vigorously to investigate, expose, and combat this conspiracy and all subversive elements and persons connected therewith. Specifically, at the earliest possible moment the Senate and the American people should be given all of the facts with reference to the promotion and honorable discharge of Maj. Irving Peress."

No comfort to Communists

Also, I have joined with the Senator from Colorado [Mr. JOHNSON] in a shorter amendment of similar wording and import and strongly urge that one of these amendments be adopted. Such action will eliminate from the supporters of the censure resolution the Communist Party, the Daily Worker, and others whose only interest therein has been for ulterior motives. It will leave the resolution just as strong for those whose primary interest is the preservation of the honor and dignity of the Senate. At the same time, it will answer the unwarranted charges that the resolution is Communist-inspired and that it is an indication that the Senate is ending its investigative powers and its battle against communism.

If anyone should object to that portion of the amendment which commends our committees and all Members of the Senate who have fought and exposed the Communist conspiracy simply because it necessarily includes Senator MCCARTHY, let me remind them that every member of the select committee recommending censure has during its investigation or during these debates acknowledged that Senator MCCARTHY has made important contributions to the exposure and elimination of Communists and their sympathizers, and most of them have commended his work to this extent. At a time when he is being criticized for mistakes and misconduct, it would seem only fair that he share in any commendation that may be made of all Members of this body to the extent that they have worked toward exposing and fighting communism and subversion.

It will be noted that this amendment calls for continued investigation by our appropriate committees and says that they shall "diligently and vigorously" investigate, expose, and combat this conspiracy and all subversive elements and persons connected therewith. Specifically, the amendment calls for the earliest possible information to the Senate and the American people of the facts with reference to the promotion and honorable discharge of Maj. Irving Peress, the Army officer whose file showed that he was a Communist Party member and leader, and that these facts were known to someone in the Army before his promotion and discharge were approved. It seems to me that this is an appropriate time for the United States Senate to let it be known that it wants its committees to find out and its Army officials to cooperate in the determination of what persons or conditions were responsible for the promotion of Peress and his hurried honorable discharge.

Whether one of these amendments is adopted or not, they express the sentiment of the junior Senator from Texas on this subject, and it is with this sentiment in mind that I proceed to discuss my decision with reference to the vote I shall cast on counts one and two of the resolution.

The first count

The first count—proposing censure for abusing and failing to cooperate with a Senate committee—relates not only to the orderly procedure and honor of the Senate, but to preservation of the investigative powers of the Senate. One of my primary concerns in this proceeding is that it shall not be interpreted as a precedent or intention to curb the power, authority, or responsibility of congressional investigating committees.

For these investigative powers to be preserved and maintained Members of the Senate must respect and uphold them and set a proper example for those who appear as witnesses or under investigation. In my opinion, the evidence shows that Senator MCCARTHY failed to do this when a subcommittee of the Senate was directed to investigate him in connection with his finances and possible charges of expulsion. The evidence appears undisputed that he not only failed and refused to explain the questions raised about the use of the money contributed to him to fight communism and other matters of a similar nature but he continually abused and berated the members of the committee, accusing them of dishonesty, stealing the taxpayers' money, and generally impugning their motives, finally ending up

with the assertion that one of the members was "a living miracle in that he is without question the only man who has lived so long with neither brains nor guts."

Important in this connection is the fact that at no time has there been any evidence offered or adduced in support of these abusive charges against a duly constituted committee and agency of the Senate. The investigative powers and authority of our committees and the dignity and honor of the Senate cannot be preserved if we allow such conduct to go unnoticed, especially when it is the conduct of the chairman of another committee which should and does demand the respect and cooperation of all persons under investigation or called as witnesses.

Parliamentary precedents

There is nothing new in this proposal to censure a member of a legislative body for impugning the motives and abusing his fellow members. From the earliest history of parliamentary bodies it has been recognized that order, decency, and mutual respect must be preserved in order for representative government to function. Thomas Jefferson explained that decorum and orderly procedures are necessary to prevent anarchy and destruction of parliamentary procedures. Jefferson's Manual of Parliamentary Practice says:

"No person, in speaking, is to * * * digress from the matter to fall upon the person (Scob., 31; Hale Parl., 133; 2 Hats., 166) by speaking, reviling, nipping, or unmannerly words against a particular member (Smyth's Comw. L., 2, ch. 3). The consequences of a measure may be reprobated in strong terms, but to arraign the motives of those who propose to advocate it is a personality, and against order."

It was to insure and preserve orderly procedures in the House and Senate that the second paragraph of section 5, article I, of the Constitution was written, as follows:

"Each House may determine the rules of its proceedings, punish its Members for disorderly behavior, and, with the concurrence of two-thirds, expel a Member."

With the same purpose in mind, Senate rule XIX, paragraph 2, reads as follows:

"No Senator in debate shall, directly or indirectly, by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator."

Cushing's Law and Practice of Legislative Assemblies says:

"Members may be guilty of misconduct, either towards the assembly itself, towards one another, or towards strangers. Misconduct of members towards the assembly, besides being the same in general as may be committed by other persons, consists of any breaches of decorum or order, or of any disorderly conduct, disobedience to the rules of proceeding, neglect of attendance, etc.; or of any crime, misdemeanor, or misconduct, either civil, moral, or official, which, though not strictly an attack upon the house itself, is of such a nature as to render the individual a disgrace to the body of which he is a member. Misconduct of members towards one another consists of insulting remarks in debate, personal assaults, threats, challenges, etc., in reference to which besides the ordinary remedies at law or otherwise, the assembly interferes to protect the member, who is injured, insulted, or threatened."

True, there have been many instances of abuse and insults to Members which have gone uncensured. However, in many of these instances the offending Member was called to order in accordance with Senate rule XIX, and in many other instances apologies and regrets have been expressed. In the only instance involving abusive language in which censure was insisted upon, the Tillman-McLaurin case, McLaurin's sole offense "was confined to the use of unparliamentary language." He and his antagonist both were censured.

In the case before us, I find no evidence of regret or apology for abusive conduct toward the Members and agencies of the Senate, but instead—new abuse and unwarranted attacks on the members of the select committee and the membership of the Senate. This, I regret exceedingly, because in all good conscience it leaves me with no alternative other than to vote for censure on count No. 1.

The second count

On count No. 2, involving the case of Maj. Irving Peress and Senator McCARTHY's cross-examination of General Zwicker, I shall vote against censure. No matter how excessive or unjustified his language might have been, there is no evidence of premeditated abuse or mistreatment as we have in connection with count No. 1. Senator McCARTHY was infuriated, and justly so in my opinion, at the action of the Army officials in hurrying up an honorable discharge for a Communist major within 48 hours after he had protested such action and demanded a court-martial. I regret that General Zwicker was the brunt of this anger rather than the Army officials who were actually responsible. The President and the Secretary of Defense have acknowledged that the Peress promotion and honorable discharge were great mistakes, but the people, and especially the Congress, are entitled to know exactly how and why it happened in order to help prevent such occurrences in the future. Someone in the Army deserves censure or expulsion and will probably receive it when the evidence is developed. Until this is done, I consider the Peress incident still an open matter and do not believe that we should censure Senator McCARTHY on the second count. All of the facts now concealed from Congress should be revealed before we criticize anyone who had any connection with the case or the investigation.

In conclusion, Mr. President, whatever resolution may result from this proceeding, I urge that it contain one of the amendments to which I have referred stating clearly the determination of the Senate that its investigation and exposure of the Communist conspiracy shall continue unabated. Let us carry out our duty in such a manner that Communists and their fellow travelers will receive no comfort from the final result of these proceedings.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Illinois [Mr. DIRKSEN] to the first committee amendment.

On this question the yeas and nays have been ordered.

Mr. WATKINS. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from Utah will state it.

Mr. WATKINS. In voting on this question a "yea" vote will be to agree to the substitute submitted by the Senator from Illinois [Mr. DIRKSEN] for the committee amendment; is that correct?

The VICE PRESIDENT. An affirmative vote would be a vote to agree to the amendment offered by the Senator from Illinois [Mr. DIRKSEN] to the first committee amendment.

The question now is on agreeing to the amendment of the Senator from Illinois to the committee amendment.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SALTONSTALL. I announce that the Senator from Ohio [Mr. BRICKER], the Senator from Indiana [Mr. CAPEHART], and the senior Senator from Wisconsin [Mr. WILEY] are absent by leave of the Senate on official business.

The Senator from Oregon [Mr. CORDON] is absent on official business, and the junior Senator from Wisconsin [Mr. McCARTHY] is necessarily absent.

On this vote the Senator from Ohio [Mr. BRICKER] has a pair with the Senator from Tennessee [Mr. GORE], and the Senator from Indiana [Mr. CAPEHART] has a pair with the Senator from Florida [Mr. SMATHERS]. If present and voting, the Senator from Ohio [Mr. BRICKER] and the Senator from Indiana [Mr. CAPEHART] would each vote "yea," while the Senator from Tennessee [Mr. GORE] and the Senator from Florida [Mr. SMATHERS] would each vote "nay."

Mr. CLEMENTS. I announce that the Senator from New Mexico [Mr. CHAVEZ] is unavoidably detained on official business and if present would vote "nay."

The Senator from Tennessee [Mr. GORE] and the Senator from Florida [Mr. SMATHERS] are absent by leave of the Senate on official business.

The Senator from Massachusetts [Mr. KENNEDY] is absent by leave of the Senate because of illness.

I announce further that the Senator from Tennessee [Mr. GORE] is paired on this vote with the Senator from Ohio [Mr. BRICKER]. If present and voting, the Senator from Tennessee would vote "nay," and the Senator from Ohio would vote "yea."

I announce also that the Senator from Florida [Mr. SMATHERS] is paired on this vote with the Senator from Indiana [Mr. CAPEHART]. If present and voting, the Senator from Florida would vote "nay," and the Senator from Indiana would vote "yea."

The result was announced—yeas 21, nays 66, as follows:

YEAS—21

Abel	Dworshak	Malone
Barrett	Goldwater	Martin
Beall	Hickenlooper	Mundt
Bridges	Hruska	Purtell
Brown	Jenner	Schoeppel
Butler	Knowland	Welker
Dirksen	Langer	Young

NAYS—66

Aiken	George	McClellan
Anderson	Gillette	Millikin
Bennett	Green	Monroney
Burke	Hayden	Morse
Bush	Hendrickson	Murray
Byrd	Hennings	Neely
Carlson	Hill	O'Mahoney
Case	Holland	Pastore
Clements	Humphrey	Payne
Cooper	Ives	Potter
Cotton	Jackson	Robertson
Daniel, S. C.	Johnson, Colo.	Russell
Daniel, Tex.	Johnson, Tex.	Saltonstall
Douglas	Johnston, S. C.	Scott
Duff	Kefauver	Smith, Maine
Eastland	Kerr	Smith, N. J.
Ellender	Kilgore	Sparkman
Ervin	Kuchel	Stennis
Ferguson	Lehman	Symington
Flanders	Long	Thye
Frear	Magnuson	Watkins
Fulbright	Mansfield	Williams

NOT VOTING—9

Bricker	Cordon	McCarthy
Capehart	Gore	Smathers
Chavez	Kennedy	Wiley

So Mr. DIRKSEN's amendment to the committee amendment was rejected.

The VICE PRESIDENT. The committee amendment is open to amendment.

Mr. MUNDT. Mr. President, I offer the amendment which I send to the desk and ask to have read.

The VICE PRESIDENT. The amendment offered by the Senator from South Dakota will be stated.

The CHIEF CLERK. On page 1, line 5, in lieu of the language proposed to be inserted by the committee, it is proposed to insert the following:

Inasmuch as the select committee to which was referred this resolution has issued a comprehensive report dealing with certain activities and statements of the junior Senator from Wisconsin, Mr. MCCARTHY, and recommending that because of certain statements made by him and his failure to cooperate fully with the Subcommittee on Privileges and Elections of the Senate Committee on Rules and Administration he should be censured, and

Inasmuch as there is no precedent in Senate history for censuring a Member of the Senate for such activities and statements, and

Inasmuch as it is not in keeping with Senate traditions and policies to apply retroactively any rules or regulations adopted for the conduct of Senators either on or off the floor or in committee, and

Inasmuch as the Senate deplores and disapproves of the use of offensive or abusive language by the junior Senator from Wisconsin in attacking the honesty or honor of patriotic witnesses before a committee or in referring to other Members of the Senate;

It is therefore declared to be the sense of the Senate that in lieu of censuring the junior Senator from Wisconsin, the Senate disavows and disapproves of the intemperate statements employed by the junior Senator from Wisconsin or any similar statements employed by any of its other Members and it is further declared to be the sense of the Senate that the Senate Committee on Rules and Administration should conduct hearings and report to the Senate, early in the first session of the 84th Congress, recommendations for any desirable changes in the rules governing committees hearing witnesses and recommendations for a code of proper and becoming conduct to apply to all Members of the Senate insofar as their contacts with fellow Senators are concerned and that such recommendations should include provisions for appropriate punishment by the Senate of any infractions of such code of conduct which may occur after its adoption.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from South Dakota to the first committee amendment. The Senator from South Dakota has 30 minutes on his amendment.

Mr. WATKINS. Mr. President, a point of order.

The VICE PRESIDENT. The Senator will state it.

Mr. WATKINS. I wish to determine from the Senator from South Dakota whether or not his amendment is intended as a substitute for the entire resolution.

Mr. MUNDT. No. It is a substitute for the committee amendment which is now pending.

Mr. WATKINS. To section 1?

Mr. MUNDT. That is correct.

Mr. WATKINS. It is in the same category as the amendment which has just been disposed of.

Mr. MUNDT. Precisely.

Mr. President, as I announced at the time the Dirksen amendment was under discussion, it seems to me that after the long months this body has spent dealing with the activities of the junior Senator from Wisconsin and the various ramifications thereof, at this late hour we should try our best to do something constructive instead of something purely negative as we approach the problem which confronts us.

As I stated yesterday, it seems to me very clear that there is a third choice. There is a constructive choice which we confront, one which I recognize, like any other choice, will not be satisfactory to everyone, but one which has the distinct advantage of looking ahead instead of looking backward, one which has the distinct advantage of avoiding the pitfalls inherent in a vote either to censure or not to censure, and one which I think would express the attitude of the Senate, if primarily, it looks to principle and avoids personalities.

I grant that the third choice will never quite satisfy those individuals who will never be happy until they have the head of the junior Senator from Wisconsin. I grant that some people in this country—and most of us know who they are—will never be quite content until someone delivers to them the head of the junior Senator from Wisconsin on a platter. I do not think there are any such persons in this body. If there are, they can identify themselves. I certainly will not undertake to designate any Senator as having that attitude. But either by my substitute or if we merely vote not to censure, we shall, of course, make those people most unhappy.

It is also true that if we vote to censure we shall, as every Senator knows, be unwittingly adding fuel to the fires of communism around the world.

There is no way by which any of us can stop the propaganda mills of the Communists from proclaiming to the people in every country of the world if we vote for censure that the United States Senate here and now has acted officially to try to destroy or at least to diminish the influence of a man who has become the symbol of the congressional fight against communism.

As I said yesterday, I believe he has become the symbol largely in spite of himself, rather than by anything he has done. However, few will deny that he has become that symbol.

I sometimes wonder what the Members of the Senate would do if they had to make this vote in the middle of a hot war with communism in Russia, instead of in the middle of a cold war with communism in Russia.

I wonder whether it would not give us a little pause to think whether perhaps we should not seek out a third constructive course, if we were in a shooting war instead of running the risk that by our action today we give aid and comfort to a Communist enemy that all of us abhor.

Therefore, it seems to me, Mr. President, an opportunity should be provided, at least for those of us who care to, to deal constructively with this situation that now confronts us, and I sincerely believe my substitute amendment provides that constructive opportunity.

There should be some means provided by which those of us who want to vote in a manner which cannot be interpreted by some people as giving aid and comfort to communism, or who want to vote in a manner which cannot be attributed by other people as placing our stamp of approval on every word and adjective used by the junior Senator from Wisconsin, can find a method to express our clear-cut convictions. There must be some other constructive course that we can follow.

I believe the substitute which I have placed before the Senate provides that other constructive course. I suggest that my substitute has other merits.

Mr. SMITH of New Jersey. Mr. President, will the Senator from South Dakota yield for a question which seeks clarification?

Mr. MUNDT. I yield.

Mr. SMITH of New Jersey. Is the Senator limiting his suggested substitute to the first section?

Mr. MUNDT. That is correct.

Mr. SMITH of New Jersey. The first section does not use the word "censure" at all.

Mr. MUNDT. That is correct.

Mr. SMITH of New Jersey. The word "censure" does not appear in the first section. I wonder whether——

Mr. MUNDT. Mr. President, my time is very much limited. My substitute is limited to the first section, I will say to the Senator from New Jersey, because of the parliamentary situation confronting us. If my amendment meets approval, I would then move to strike the second section. I am sorry that I cannot yield further at this time.

Let me read the salient part of the proposal, because I believe it expresses what many Senators have stated:

It is declared to be the sense of the Senate that in lieu of censuring the junior Senator from Wisconsin, the Senate disavows and disapproves of intemperate statements employed by the junior Senator from Wisconsin, or any similar statements employed by any of its other Members.

Mr. President, I fail to see why in a sense of piety we should simply disapprove the intemperate language used by the junior Senator from Wisconsin and ignore entirely or look without any sense of censureship upon equally repulsive and repugnant—if not more so—statements used against the junior Senator from Wisconsin by, for example, the Senator from Vermont [Mr. FLANDERS].

I do not understand how we could justify such a double standard of morality. If it is objectionable and wrong and censurable for one Senator to speak intemperately of another Senator, it seems to me it is equally objectionable and wrong and censurable for another Senator to do so, particularly when that other Senator sits on the floor of the Senate and votes on this measure to censure a Senator he has personally attacked.

By adopting my amendment, we would avoid the difficulty of selecting from among our friends and our enemies those who should perhaps be censured and those who perhaps should receive a pat on the back, even though the latter have used equally repugnant and repulsive language in the same calendar year and before the same Senate. I suggest that we come out clearly and courageously and say that we disavow and dis-

approve of all intemperate language, whether employed by the junior Senator from Wisconsin or any other Member of the Senate. Why not make universal application of such a rule? I believe we should.

We would avoid another pitfall, Mr. President; we would avoid the pitfall in the current issue of proceeding to violate what I consider to be one of the great inherent American bastions of freedom, the rights of States, the principle of States' rights.

It is proposed to go behind the determination of the electorate of the State of Wisconsin in 1952, and to tell them that, in spite of the fact that they elected the junior Senator from Wisconsin, and in spite of the fact that he has taken his seat, we now propose to censure the Senator for having failed to come before a committee of the Senate to discuss things that were discussed in his campaign in Wisconsin, and which things the people of Wisconsin considered before they reelected the Senator from Wisconsin for a second term. In doing this, we may be doing more to censure the voters of Wisconsin than we are to censure their junior Senator.

Mr. President, it seems to me that we are treading in a very dangerous area when we establish a precedent to the effect that the Senate has the right to tell the people of a sovereign State whom they can send to the Senate, when a question of neither morality nor fraud is involved.

I am afraid if we vote in that direction some of our friends from south of the Mason-Dixon Line will regret for many years the interpretation and the precedent of the action we take here in order to meet a particular problem, which we can meet in different ways other than riding roughshod over the principle of States' rights.

Having stated, as I think we should state, that we disavow and disapprove of intemperate statements by our colleagues, I propose that we look ahead, and that we plan for the future. I suggest that we do something constructive. I suggest that we express it to be the sense of the Senate that the Committee on Rules and Administration, or any other appropriate committee, bring in a set of rules which that committee believes should be recommended to the Senate for conducting committee activities and for proper conduct of committee chairmen.

Having adopted such rules, we would then have the power to enforce them, because we would have specific offenses described and specific punishments provided by official Senate action.

I go further and suggest that the appropriate committee of the Senate, in looking ahead, hold hearings and give careful consideration to the desirability of establishing codes of proper conduct for the Members of the Senate. That committee can go as far as it likes. It can establish the proper codes of conduct for Senators on the floor or off the floor, or both. Whatever it does, will be clear. Whatever is adopted will be obvious and universally applicable. It may improve the attitudes and the acts of every Member of the Senate. Once the rules are adopted, if they are, the Senate will set up machinery for their enforcement, and they will be enforced by the Senate against all Senators equitably.

Mr. HICKENLOOPER. Mr. President, will the Senator yield for questions?

Mr. MUNDT. I yield.

Mr. HICKENLOOPER. As I understand, the Senator is arguing that if the Senate is to adopt lexicon which circumscribes the choice of words a Senator may use in the conduct of his public affairs, we had better study that lexicon a little in order to determine what circumscription is to be applied, in view of the long traditions and the experiences of the past, when words, which sometimes were rough and perhaps brutal, have not been made the cause for official censure in the Senate. Is that correct?

Mr. MUNDT. The Senator states the problem very well.

Mr. HICKENLOOPER. Mr. President, will the Senator yield for another question?

Mr. MUNDT. I yield.

Mr. HICKENLOOPER. Words of delicate and fine semantics have been used in the past, have they not, to push the poniard into other Members?

Mr. MUNDT. Yes; and some words could not be described exactly as being delicate.

Mr. HICKENLOOPER. And there have been brutal words used in the past.

Mr. MUNDT. That is correct.

Mr. HICKENLOOPER. Which have undoubtedly unjustly injured the sensibilities of other Senators. Is that correct?

Mr. MUNDT. That is correct.

Mr. HICKENLOOPER. Does it make much difference whether a wound is caused by a fine, delicate stiletto being inserted, or by a meatax which cuts off the head? Does it make much difference in the long run if the injury occurs just the same?

Mr. MUNDT. The Senator is correct. What disturbs me is that while it does not seem to make much difference as to the nature of the weapon which is used, to a great many Members of the Senate it does seem to make a considerable difference as to who uses the weapon. That, to me, is the unjust and unfair phase of this whole matter.

The Senator from Iowa sat here, as I did, and listened to the Senator from Illinois read a long list of prior offenses. There is no Senator on the floor who will deny that in that list there were a great many examples of language which was much more repulsive, much more repugnant, much more offensive, and much more intemperate than was anything ever said by the junior Senator from Wisconsin at his best, or at his worst. We can put it either way. I do not know why no one raised the point of censure. I do not know why the precedent of censure was never established, but I know it was not. Certainly there should be universal applicability of punishment for like offenses. We now propose, and I wonder why, singling out a particular Senator because he used language of which I disapprove and of which you disapprove, when we have entirely ignored worse examples by predecessors, some of whom are sitting in this body today.

Mr. President, I suggest that we give some thought to a constructive approach. I think we can do that. I have said, as many other Senators have said in correspondence, that I disapprove of some of the language which the Senator from Wisconsin has used. I have said it in public speeches. I propose now to put it into legislative language. I think it is fair and right as an expression of our position. The thing I oppose is the idea that we should take an expression of disapproval and balloon it up into an official act of censure, when on previous occasions nothing like that has ever been done at any time in the history of the Senate.

Mr. McCARTHY. Mr. President, will the Senator from South Dakota yield for a unanimous-consent request?

Mr. MUNDT. Not if it is to be taken out of my time. I have very little time.

Mr. McCARTHY. I want to ask unanimous consent to have 2 minutes to cover a point, without the time being taken from the Senator from South Dakota.

Mr. WATKINS. Mr. President, I yield 2 minutes to the Senator from Wisconsin for that purpose.

Mr. McCARTHY. Mr. President, I hesitate to interrupt the Senator from South Dakota at this time, but I must leave the Chamber, and I should like to address my remarks to the majority leader and the minority leader.

Mr. MUNDT. May I establish on the record the fact that I may have the floor when the junior Senator from Wisconsin has concluded?

The VICE PRESIDENT. The Senator from South Dakota has the floor.

Mr. McCARTHY. Mr. President, it is not important, so far as the resolution of censure is concerned—the sooner we can get through with that the better I shall like it—but I invite the attention of the majority leader and the minority leader to letters allegedly signed by the Senator from Iowa [Mr. GILLETTE]. I told representatives of the press last night that I knew he had not signed them, that they were forgeries. They are letters which bear the signature of the Senator from Iowa, and there are others about which he knew nothing. The letters ask for illegal action on the part of postmasters in Maryland and in Washington. I have photostatic copies of the letters to which someone forged the signature of the Senator from Iowa, and I think it should be made clear that he should take no blame in the matter, because he knew nothing about it.

I was not present this morning, but I understand that the senior Senator from Arizona [Mr. HAYDEN] made some remarks about it. Even though he may be generous in the matter, he cannot take the blame, because he did not have any place on the Gillette subcommittee until after the Senator from Iowa left.

All the information I have is that a Mr. Cotter, who is now working for the House Committee on Government Operations, can give a picture of the reason

for the forgery and for the request for illegal action.

I think the majority leader and the minority leader should, some time before tomorrow morning, decide whether we should call the necessary witnesses under oath and find out who was guilty of the forgery, who was the instigator of this act which calls for a violation of a Federal criminal law on the part of two different postmasters.

In addition to that, I think we should call the staff of the Watkins committee and find out why this information was suppressed, why there was a suppression of evidence. The Senator from Utah has subpenaed the evidence; he had the letters before him. I do not know whether he knew about it, but members of his staff said they knew. Someone was guilty of suppressing important evidence which the Senate should have.

In conclusion, Mr. President, I would say to the majority leader and the minority leader that I am not concerned with the question insofar as it may affect the votes of Senators. I know exactly how they will vote. But if we are concerned about the dignity of the Senate—and it makes me a bit ill to hear some of my colleagues talk about what they consider the dignity of the Senate——

The VICE PRESIDENT. The time of the Senator from Wisconsin has expired.

Mr. WATKINS. Mr. President, I yield another minute to the Senator from Wisconsin, if he desires it.

Mr. McCARTHY. If we are concerned with the dignity of the Senate, then I suggest to the majority leader and the minority leader that before the final vote is had they call the necessary witnesses—I can give their names—and put them under oath and find out who was guilty of forging the signature of the chairman of a Senate committee for the purpose of having an illegal act committed. I think, if I may say so, Mr. President, that this is important. We have gone through this farce now to the point where I think the Senate is disgraced to a great extent; but let us try to regain a part of what we have lost over the past few days, and let us in all decency and honesty find out who on the Watkins committee has the information. I doubt if any member of the committee has it, but someone has it. Let us find out who suppressed the information and why it has not been brought to the attention of the Senate.

Mr. MUNDT. Mr. President, may I inquire how much of my 20 minutes I have left?

Mr. JOHNSON of Texas. Mr. President, does the Senator from South Dakota have the floor?

The VICE PRESIDENT. The Senator from South Dakota has the floor, and he has 4 minutes remaining.

Mr. JOHNSON of Texas. Mr. President, will the Senator from South Dakota yield to me?

Mr. MUNDT. If I can make a deal with my friend from Utah to be yielded back the time that is consumed.

Mr. WATKINS. I yield 2 minutes, with the understanding that the Senator from South Dakota retains the floor.

Mr. JOHNSON of Texas. Apropos the suggestion made by the junior Senator from Wisconsin, the minority leader wishes to make this observation. So far as I know, neither the majority leader nor the minority leader has any authority to take action on the suggestion. We have no subpena power. We have no right to act for the Senate in this case either as an agent or as a committee.

If the junior Senator from Wisconsin desires to do so, it seems to me that, with respect to the alleged forgery to which he refers, if he would prepare a resolution, certainly the minority leader—and the majority leader can speak for himself—would be very glad to have the resolution referred to the appropriate committee which the Vice President might select for its immediate consideration and study.

The senior Senator from Texas, as minority leader, has no authority to subpena any witness or to ferret out whatever truth or untruth may exist in the charge. I certainly do not wish to suppress anything. If the junior Senator from Wisconsin desires to submit a resolution, setting forth what he desires to have done, it would then be a matter on which the entire Senate could act.

Mr. McCARTHY. Mr. President, will the Senator yield for a question?

Mr. JOHNSON of Texas. I yield.

Mr. McCARTHY. I may say that this would not accomplish the purpose. I think that before the final vote the Senate should know the picture of this alleged forgery. I wish to make it very clear that last night, before the Senator from Iowa [Mr. GILLETTE] had made his statement, I stated that I knew he was not responsible for the act. He was in no way responsible. I told the three wire services last night that I believed this was a forgery. It has to do with the question of whether or not, as the Watkins committee said, I was not justified in criticizing the Gillette committee. If some of the staff members were forging the chairman's signature to obtain illegal action, action in violation of the Federal criminal law, then the statement of the Watkins committee could hardly stand up.

I say to the very able Senator from Texas, who is temporarily the minority leader, but who will shortly become the majority leader, that I feel all Senators should know why this evidence was suppressed. I do not accuse any of the six Senators of suppressing it. I do not know who was responsible. I know that Mr. de Furia and Mr. Chadwick told the committee that they had examined all the evidence and knew of what it consisted. So someone suppressed the evidence.

I may suggest further, while we are about it, that it might be well to subpena the minutes of the November 21 meeting of the Gillette committee. The Senator from Iowa [Mr. GILLETTE] was not present at that meeting. It was decided at that meeting not to ask or require the junior Senator from Wisconsin to appear. It was decided that a deadline would be set beyond which I could not appear, namely, November 25. They knew at that time that Mr. Cotter had been notified that I could not return by that date. Nevertheless, even when that evidence was available to the Watkins committee, they concluded that there was an invitation and that I should have appeared. They had the minutes of that meeting. I did not have them at the time; I have them now. They are available, and I think they should be made a part of the record, not for the purpose of influencing the vote. I know what the vote will be. It does not concern me in the least. I want to get back to the all-important work of the investigating committee. But I think, to keep the record clear, that the evidence which was suppressed should be made a part of this record.

I think the able minority leader, who is about to become the majority leader, would want to take steps to have that evidence made a part of the record before there is a final vote. Beyond that, I have nothing further to say in the matter.

Mr. JOHNSON of Texas. I have no desire to prolong the discussion——

The VICE PRESIDENT. The Senator's time has expired.

Mr. JOHNSON of Texas. I think I have time available.

Mr. WATKINS. Mr. President, how much time have I remaining of the time I yielded?

The VICE PRESIDENT. The time has expired.

Mr. JOHNSON of Texas. I have no desire to prolong the discussion or to engage the Senator from Wisconsin in an argument on the matter. I have stated my position, namely, that so far as I am aware, I have no authority or power to subpena anyone or anything.

Mr. WELKER. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from South Dakota [Mr. MUNDT] has the floor.

Mr. MUNDT. Unless the Senator from Utah [Mr. WATKINS] will yield additional time, I do not have additional time to yield.

Mr. WELKER. Mr. President, I ask unaimous consent that I may make a parliamentary inquiry without either side losing any time.

The VICE PRESIDENT. Is there objection? The Chair hears none. The Senator from Idaho will state his parliamentary inquiry.

Mr. WELKER. Will the Chair state whether the question raised by the junior Senator from Wisconsin could be referred to the Subcommittee on Internal Security or to any other committee of the Senate? Some Senators are not clear on the matter. I wonder if we could have a ruling upon the question.

The VICE PRESIDENT. If a Member of the Senate desires to ask unanimous consent to refer the matter to an appropriate committee, such consent could be granted. The Committee on the Judiciary would appear to be the proper committee to which reference of the matter should be made.

Mr. WATKINS. Mr. President, what matter is being talked about?

The VICE PRESIDENT. The Senator from Idaho had asked what disposition could be made of the matter just discussed by the junior Senator from Wisconsin; namely, as to what committee

it could properly be referred to. The Chair was responding to the inquiry.

Mr. WATKINS. Does the Senator refer to the charges with respect to someone forging the name of the Senator from Iowa [Mr. GILLETTE] or to the charge that some member of the staff of the select committee suppressed some evidence?

The VICE PRESIDENT. The Chair understood the request of the Senator from Idaho to deal with the alleged forgery to which the junior Senator from Wisconsin had referred. So far as the question as to by whom the forgery was committed or who was responsible for it is concerned, that would, of course, have to be determined by the appropriate committee. No request has as yet been made to refer the matter.

Mr. WATKINS. I do not yield for the purpose of taking up some special matter which is sought to be referred to a committee and which affects the committee of which I am still the chairman.

The VICE PRESIDENT. The time of the Senator from Idaho has expired. The Senator cannot be recognized further for his parliamentary inquiry unless the Senator from South Dakota wishes to yield additional time.

Mr. WELKER. Mr. President, I ask the Senator from South Dakota to yield to me not to exceed one-half minute so that I may propound a unanimous-consent request.

Mr. MUNDT. I yield not to exceed 30 seconds to the Senator from Idaho.

Mr. WELKER. I ask unanimous consent that the question raised by the junior Senator from Wisconsin, namely, whether there was suppression of evidence, be referred to the Subcommittee on Internal Security of the Committee on the Judiciary.

Mr. WATKINS. Reserving the right to object, I wish to say now that no member of the select committee staff has suppressed any evidence. There was a vast amount of material in the hands of the Gillette-Hennings subcommittee. They did not have time to go through all of it. I have already explained the position which the select committee took as a matter of law. It was explained in great detail this morning. Under those circumstances, if it is proposed to begin an investigation of the committee staff, the staff cannot defend itself. I know they are all honest men. I object.

The VICE PRESIDENT. Objection is heard. The Senator from South Dakota has the floor.

Mr. MCCARTHY. Mr. President, a parliamentary inquiry.

Mr. WATKINS. I ask for the regular order.

The VICE PRESIDENT. Does the Senator from South Dakota yield to the Senator from Wisconsin for a parliamentary inquiry?

Mr. MUNDT. I yield not to exceed 30 seconds.

Mr. MCCARTHY. Make it 15 seconds.

Can the Senate refer this matter to the Department of Justice immediately, in view of the fact that a clear-cut violation of Federal law is involved? In other words, would a motion be in order to refer the matter to the Department of Justice?

The VICE PRESIDENT. A unanimous-consent request to that effect would be appropriate.

Mr. MCCARTHY. Mr. President, I ask unanimous consent that——

Mr. STENNIS. Mr. President, I ask for the regular order.

The VICE PRESIDENT. Objection is heard. The Senator from South Dakota is recognized.

Mr. MUNDT. Mr. President, if I remember correctly, some time ago the Chair advised me that I had 4 minutes remaining of my original 20 minutes.

The VICE PRESIDENT. The Senator from South Dakota still has 4 minutes remaining.

Mr. MUNDT. I have a little difficulty recalling exactly where I was in the course of my discussion.

The VICE PRESIDENT. The Senator will suspend. The Senate will be in order. Those who desire to carry on conversations will go to the cloakrooms. The Senator from South Dakota will not proceed until the Senate is in order.

The Senator may proceed.

Mr. MUNDT. Mr. President, I should say that what has recently transpired on the floor of the Senate, as I reconstruct it, appears to be an unchallenged statement that some forgeries were entered into in the course of the hearings by the Gillette subcommittee. No one challenges the fact that the man whose name is mentioned is not in any sense responsible. With respect to the second charge, that somebody suppressed the evidence, which has been challenged, having no knowledge of any subsequent act which has taken place, I think that should also add up to support for the substitute which I have offered. It seems to give added emphasis to the good sense in our now doing what we can well do. Regardless of who forged the letter, or who did or did not suppress information, we can still disavow any offensive language of any Member of our body. We can still express that it is the sense of the Senate that it establish some rules which we can make applicable to every Senator, and not say eeny-meeny-miny-mo, stopping at Wisconsin only when "mo" is reached. Or we could search our minds and hold hearings to determine whether it is necessary to establish proper rules of conduct for Senators, either on or off the floor. If the Senate adopted such rules, we could make them applicable to Senators from all the 48 States, and not just to the junior Senator from Wisconsin. To me that is the fair thing to do, to me that is the honest thing to do, to me that is the nondiscriminatory thing to do. At least, my substitute is the only constructive proposal before the Senate. All the other proposals simply say we shall vote either for censure or against it. We know that when we vote on such a narrow issue many people are going to misinterpret whichever way we vote. And no lasting constructive purpose will be served.

I should like to make a rejoinder to what was said by my friend the Senator from Utah [Mr. WATKINS] about the Dirksen substitute, who implied that the choice is either to vote for censure or to say that Senator MCCARTHY was right in his attitude toward the Gillette or the Hennings subcommittee in everything he said or did. The Senator from Utah has said that we can either vote for censure or say that everything Senator MCCARTHY said about the Senator from New Jersey or General Zwicker was all right.

That cannot be said with respect to my proposal. I am not suggesting that the Senate say the conduct or language of the junior Senator from Wisconsin was all right. My proposal is that we disapprove of the offensive language which the Senator from Wisconsin has used. Then I am proposing that the Senate should look ahead and show the good faith and courage to give a committee of the Senate the responsibility of recommending sets of rules of conduct. Then, if Senators wish to vote them up or down, they can do so, but having voted them up we should propose to live by them and to enforce them universally and equitably.

In the debate, both in August and during the present session, it was shown that there are persons in this body who think we should have a great many reforms. There are persons who want to engage in a great moral crusade or reformation in the Senate. I shall be happy to join with them in any appropriate reforms, but I think my proposal makes clear that those of us who want to look ahead and who want to establish rules to live by, both for themselves and their colleagues, can do so now and here and by my substitute. I think my proposal will give Senators an opportunity to do that, at the same time expressing disapproval of the statements that have caused offense by the Senator from Wisconsin.

I conclude by saying once again that I do not think a double standard of morality enacted by the United States Senate is the proper rule of justice to place before the taxpayers of America. I do not think it is proper for the greatest deliberative body in the world to display before the world that it is saying that for the other Senators such and such will be the rule, but for the junior Senator from Wisconsin, because of one reason or another he has been singled out and we should apply a different procedure to him, a different punishment, and a different rule.

I urge my colleagues, whose opposition to communism I know is genuine, to think carefully before, by their action, they give aid and comfort to communism—the most godless and fearsome enemy this country ever had.

As I said before, I do not believe Senator MCCARTHY deserves to be called the symbol against communism in America, but he has been called that. He has been accepted as that. The world recognizes him as such because of the propaganda which has been put out largely by his enemies.

Are we going to cut down the symbol and have such action misinterpreted, when, by constructive action we can voice our displeasure and disapproval over things which should not have been done, and establish a code of conduct to govern us all in the future?

Mr. President, I yield back the remainder of my time.

Mr. WATKINS. Mr. President, I yield myself 1 minute. I do not intend to rehash the arguments that have already been made. I think what has been previously said during the debate, and what is stated in the report of the select committee, is a complete answer to the argument just made by the Senator. I do not intend to use the rest of my time. I shall release whatever time I have, unless a member of the select committee or other Members of the Senate desire to speak. I yield back my time, and ask for the yeas and nays.

Mr. MUNDT. Mr. President——

The VICE PRESIDENT. The Senator from South Dakota has 8 minutes remaining.

Mr. WATKINS. Mr. President, if the Senator is going to speak, I withdraw the yielding back of my time. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MUNDT. Mr. President, I yield 4 minutes to the Senator from California.

Mr. KUCHEL. Mr. President, once before during the brief time I have served in the Senate I participated in a debate which dealt with a specific Member of the United States Senate. At that time, a number of months ago, a motion was made by a Member of the Senate to find disqualified for membership the senior Senator from the State of New Mexico [Mr. CHAVEZ], a Democrat. I listened carefully to the debate and to the discussion, and I concluded that, as a case had not been made in favor of the motion, I should therefore vote against the motion to find vacated the senior senatorship from the State of New Mexico.

I have endeavored in this instance again, Mr. President, to approach an onerous and a difficult chore with an open mind, and thus to arrive independently at my best judgment. I have deplored many of the words spoken by the junior Senator from Wisconsin.

According to the standard of ethics and morals by which I endeavor to guide myself, I find those words offensive; but I must also say, Mr. President, that I have listened to other Members of the Senate, both off and on the floor, use language which to me was equally offensive and deplorable.

There are some Members of the Senate, and some persons in the United States, I regret to say, who hate the junior Senator from Wisconsin, and who find that he is incapable of any good. I am sure there are others in the Senate and in the country who, contrarywise, feel that the junior Senator from Wisconsin can do no wrong. I shall appeal, in the few seconds which remain to me, to those on both sides of the aisle who, like myself, take pride in independence, to consider the question which is before us as proposed by the senior Senator from South Dakota. His proposal deplores and disavows the offensive and abusive language which from time to time has been indulged in by the junior Senator from Wisconsin.

That is the way I feel about it. But I must tell the Senate that after listening to the recital of statements made by individual Members of the United States Senate in days gone by and noting violations by them of the standard of ethics to which I subscribe, it becomes very difficult at this time for me to censure, by my vote, one who is my colleague.

However, I desire by my vote to indicate to the people of the United States that I disavow abusive language. That is what the pending amendment to the committee amendment would do.

I wish to reiterate, today, that the Senate needs an abundance of changes in its rules. Previously I have alined myself with the Senator from Connecticut [Mr. BUSH] in his desire to have rules for Senate committee procedure.

The VICE PRESIDENT. The time of the Senator from California has expired.

Mr. MUNDT. Mr. President, I yield 2 additional minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for two additional minutes.

Mr. KUCHEL. I thank my colleague.

Mr. President, I repeat that early next year the Senate needs to concern itself with rules for Senate committee procedure, and that is what the amendment to the committee amendment recommends.

Furthermore, I think we might give consideration to some basic rules of conduct by which all of us should be guided. I have listened to Senators say some fairly mean things about their colleagues; and on one occasion, one of my brethren in the Senate had some rather ugly and mean things to say about the junior Senator from California. However, I would not wish to use his ugly words as a basis at this time for censuring his conduct.

For that reason, Mr. President, I suggest—as one of the junior Members of the Senate—that Senators give their urgent consideration to the adoption of the amendment submitted by the able Senator from South Dakota [Mr. MUNDT] to the committee amendment, and that in that way Senators make a positive statement on behalf of the Senate that it disavows this type of language, but that it attempts to look forward and to take a constructive position in the future as to the conduct of the business of the Senate.

The VICE PRESIDENT. The additional time yielded to the Senator from California has expired.

Mr. CARLSON. Mr. President, will the chairman of the select committee yield 2 minutes to me?

Mr. WATKINS. Yes, Mr. President; I yield 2 minutes to the Senator from Kansas.

The VICE PRESIDENT. The Senator from Kansas is recognized for 2 minutes.

Mr. CARLSON. Mr. President, I think all Senators and the Senate as a whole are concerned with the conduct of the Members of this body. The distinguished senior Senator from South Dakota [Mr. MUNDT] has stressed the fact that in this particular instance the Senate has singled out one Senator for condemnation or censure. That is a fact, but that was not the fault of the select committee. We who served on the select committee performed the duty assigned to us by the Senate, namely, to go into the charges presented to the Senate by various Members of the Senate. We also went into the problem of proposed changes in the rules of the Senate, inasmuch as that was a part of the same resolution.

I remind the Senator from South Dakota that there is a rule of good conduct in the Senate, and that rule has been in effect from the very beginning of the Senate, from the time of its very first session. I think the members of the select committee tried, in their report, to affirm that principle or rule. It has been called to the attention of the Senate—in fact, I have heard some Senators discuss it during the present debate—that if this provision should be allowed to stand, it would greatly hamper the making of speeches and the conduct of operations in the United States Senate. The rule reads as follows:

> Any Senator has the right to question, criticize, differ from, or condemn the official action of the body of which he is a Member or of the constituent committees which are working arms of the Senate, in proper language.

Mr. President, in my opinion that rule was in effect and was implied at the very first session of this great body, and is in effect today.

I sincerely hope and trust that it will not be necessary for us to write rules regarding the conduct of individual Members of the Senate. I think we should take it upon ourselves to bear worthily the great honor which has been conferred upon us in trust by the people of the several States.

I am in accord with writing some rules for the conduct of Senate committees, and I am very happy to have served on and to be serving on a committee, under the leadership of the distinguished junior Senator from Indiana [Mr. JENNER] and the distinguished senior Senator from Arizona [Mr. HAYDEN], which has been holding hearings on that subject. I do not believe I violate any confidence of the committee if I state that I prepared the proposed rule changes to be found in the report which was adopted unanimously by the committee; and I hope such changes will be agreed to by the Senate.

However, I do not believe we should proceed to write rules for the conduct of Senators.

Of course, the Senate did single out the junior Senator from Wisconsin, but that was not the fault of the Senator from Kansas. I condemn any such action on the part of any Senator, I care not who he may be.

Mr. MUNDT. Mr. President, how much time remains to me?

The VICE PRESIDENT. The Senator from South Dakota has 1 minute remaining.

Let the Chair also state that the Senator from Utah [Mr. WATKINS] has 17 minutes remaining.

Mr. MUNDT. Mr. President, let me inquire whether the Senator from Utah desires to use any more of the time available to him.

Mr. WATKINS. I have previously announced that I did not think it was necessary for me to reply to any of the

arguments submitted by the Senator from South Dakota. However, I had better wait to see what he will say now, before I decide whether to yield any more of the time available to me.

Mr. MUNDT. Mr. President, I shall not say very much in 1 minute, except to emphasize what I consider to be a most startling statement made in the course of the debate; and it was made by a very good friend of mine, whose candor I respect, and I applaud him for his candor in making the statement. The Senator from Kansas [Mr. CARLSON] has just said it is a fact that the Senate has singled out one Senator of the United States for special treatment. He stated that to be a fact. He said—and I agree with him—that he did not single out that Senator, and that the select committee did not single out that Senator, but that the Senator he mentioned had been singled out, and that the select committee had been assigned the task and duty of considering the conduct of that one Senator.

Mr. President, let us consider that fact in connection with my proposal to apply, on a fair basis, proper rules to all Members of the Senate. In other words, I propose that we show clearly that we are not throwing stones from a house of glass, but that we are willing to apply to ourselves the rules we would apply to other Senators.

Yet today one Member of the Senate has stated to us that it is a fact that the Senate has singled out one of its Members, whose offense was no greater—in fact, in some respects it was less—than a series of offenses which constitute a list almost as long as a bamboo fishing pole; and this very afternoon that list was read into the CONGRESSIONAL RECORD by the distinguished Senator from Illinois [Mr. DIRKSEN].

I suggest we take the constructive course of expressing our disapproval of what has been done, and that then we proceed to establish whatever rules and regulations and codes of conduct we believe it necessary for the Senate to adopt—those by which we ourselves are willing to live, instead of applying to other Senators rules for punishment which do not now exist.

Mr. WATKINS. Mr. President, I should like to say that, as I recall, 75 Senators accepted the charges as being of sufficient gravity, at least, to warrant their reference to the select committee. Seventy-five Senators thus were responsible for singling out the junior Senator from Wisconsin [Mr. MCCARTHY]. If I remember correctly, my good friend, the Senator from South Dakota [Mr. MUNDT], was one of that number.

Mr. MUNDT. Mr. President, will the Senator from Utah yield to me?

Mr. WATKINS. I yield.

Mr. MUNDT. Does the Senator from Utah say that by voting to refer this series of charges to the select committee, Senators were automatically finding guilty the Senator whose conduct was being referred to the select committee for consideration?

Mr. WATKINS. That is not a fair construction of what I said. I said the Senate of the United States determined that the charges were of sufficient gravity to warrant the creation of a select committee to which the charges would be referred for study; and I said that the charges related to only one Senator.

Mr. MUNDT. I did vote for that, because I thought it was wise to study the facts, so as to be able to determine whether there was something about that Senator's conduct that was different from the conduct of other Senators, under the precedents. However, the report of the select committee shows that there were no such differences.

Mr. WATKINS. If the select committee had been instructed to study the conduct of and the charges against 10 other Senators who had said improper things, then, as chairman of the select committee, we would have examined the charges against them; or if the committee had been instructed to study improper statements by 50 Senators and to report on charges made against those 50 Senators, we would have examined those statements and charges and we would have made that report. However, the select committee was not given any such assignment. We could act only within the scope of our authority and the charges which were before us. As one Senator said during the debate, we could not go behind the evidence or behind our instructions.

Mr. MUNDT. Is it not correct that in the debate, in the evidence presented before the committee, and in the context of the discussions leading up to it, the committee had before it statements of the senior Senator from Vermont, who once this very year referred to the junior Senator from Wisconsin as a Hitler, and once, by implication, as a homosexual?

Mr. WATKINS. There were no charges made against the Senator from Vermont. We were not required to investigate charges against anyone but the junior Senator from Wisconsin, and we could investigate only the charges filed against him.

Mr. MUNDT. The committee could have recommended a censure resolution to include them all. As my proposal says, I disavow and disapprove of what the junior Senator from Wisconsin said. I disavow and disapprove what the Senator from Vermont [Mr. FLANDERS] said, and what any other Senator may have said in the nature of offensive or abusive language.

Mr. WATKINS. As a matter of law, when I, as a judge, had before me men charged with murder, burglary, or speeding, I did not bring into court anyone else who, I happened to know, was guilty of speeding. I considered only 1 charge at a time, against 1 individual.

Mr. MUNDT. The jurisdiction of the committee over the controversy would have given it a perfect right to bring in as large or as inclusive a resolution as it chose on the basis of all available facts.

Mr. WATKINS. We did not so construe our instructions, and I think the Senate will agree with us.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from South Dakota [Mr. MUNDT] to the first committee amendment. On this question the yeas and nays have been ordered.

Mr. KNOWLAND. Mr. President I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Abel	Frear	Mansfield
Aiken	Fulbright	Martin
Anderson	George	McCarthy
Barrett	Gillette	McClellan
Beall	Goldwater	Millikin
Bennett	Green	Monroney
Bridges	Hayden	Morse
Brown	Hendrickson	Mundt
Burke	Hennings	Murray
Bush	Hickenlooper	Neely
Butler	Hill	O'Mahoney
Byrd	Holland	Pastore
Carlson	Hruska	Payne
Case	Humphrey	Potter
Chavez	Ives	Purtell
Clements	Jackson	Robertson
Cooper	Jenner	Russell
Cordon	Johnson, Colo.	Saltonstall
Cotton	Johnson, Tex.	Schoeppel
Daniel, S. C.	Johnston, S. C.	Scott
Daniel, Tex.	Kefauver	Smith, Maine
Dirksen	Kerr	Smith, N. J.
Douglas	Kilgore	Sparkman
Duff	Knowland	Stennis
Dworshak	Kuchel	Symington
Eastland	Langer	Thye
Ellender	Lehman	Watkins
Ervin	Long	Welker
Ferguson	Magnuson	Williams
Flanders	Malone	Young

The VICE PRESIDENT. A quorum is present.

The question is on agreeing to the amendment offered by the Senator from South Dakota [Mr. MUNDT] to the first committee amendment. On this question the yeas and nays have been ordered, and the Secretary will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCARTHY (when his name was called). Present.

The legislative clerk resumed and concluded the call of the roll.

Mr. SALTONSTALL. I announce that the Senator from Ohio [Mr. BRICKER], the Senator from Indiana [Mr. CAPEHART], and the Senator from Wisconsin [Mr. WILEY] are absent by leave of the Senate on official business.

Mr. CLEMENTS. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Florida [Mr. SMATHERS] are absent by leave of the Senate on official business; and, if present, each of these Senators would vote "nay."

The Senator from Massachusetts [Mr. KENNEDY] is absent by leave of the Senate because of illness.

The result was announced—yeas 15, nays 74, as follows:

YEAS—15

Abel	Dworshak	Mundt
Barrett	Goldwater	Payne
Brown	Hruska	Purtell
Case	Kuchel	Schoeppel
Cordon	Millikin	Young

NAYS—74

Aiken	Daniel, Tex.	Hendrickson
Anderson	Dirksen	Hennings
Beall	Douglas	Hickenlooper
Bennett	Duff	Hill
Bridges	Eastland	Holland
Burke	Ellender	Humphrey
Bush	Ervin	Ives
Butler	Ferguson	Jackson
Byrd	Flanders	Jenner
Carlson	Frear	Johnson, Colo.
Chavez	Fulbright	Johnson, Tex.
Clements	George	Johnston, S. C.
Cooper	Gillette	Kefauver
Cotton	Green	Kerr
Daniel, S. C.	Hayden	Kilgore

Knowland	Morse	Smith, Maine
Langer	Murray	Smith, N. J.
Lehman	Neely	Sparkman
Long	O'Mahoney	Stennis
Magnuson	Pastore	Symington
Malone	Potter	Thye
Mansfield	Robertson	Watkins
Martin	Russell	Welker
McClellan	Saltonstall	Williams
Monroney	Scott	

NOT VOTING—6

Bricker	Gore	Smathers
Capehart	Kennedy	Wiley

ANSWERED "PRESENT"—1

McCarthy

So Mr. MUNDT's amendment to the committee amendment was rejected.

The VICE PRESIDENT. The question recurs on the committee amendment on page 1.

Mr. BRIDGES. Mr. President, I send an amendment to the desk and ask that it be stated.

The VICE PRESIDENT. The clerk will state the amendment.

The CHIEF CLERK. In lieu of the language of the committee beginning on page 1, line 5, it is proposed to insert the following:

The Senator from Wisconsin [Mr. McCARTHY] violated no rule, and no precedent in failing to appear before a subcommittee of the Senate when the matter of appearance before that subcommittee, by the letters of invitation issued by that subcommittee left appearance as a matter of the Senator's own discretion.

SEC. 2. That the same privileges and immunities, as well as rules insofar as applicable, prevail in committee hearings as on the Senate floor and therefore no rules or precedents were violated by the use by the Senator from Wisconsin [Mr. McCARTHY] of words during the conduct of a hearing which even might be characterized as intemperate nor in his denouncing a witness duly called before his subcommittee, who had been reluctant, evasive, and uncooperative to the extent that the informing function of the Senate was hindered.

Mr. WATKINS. Mr. President, I should like to inquire of the Senator from New Hampshire if his amendment is offered as a substitute for all of the committee's recommendations.

Mr. BRIDGES. It is a substitute for sections 1 and 2.

Mr. WATKINS. For both sections 1 and 2?

Mr. BRIDGES. That is correct.

Mr. WATKINS. Mr. President, I point out that the amendment is out of order.

The VICE PRESIDENT. The Senator from Utah is correct. If the amendment of the Senator from New Hampshire relates to sections 1 and 2, it is not in order at this point.

Mr. BRIDGES. The Senator from New Hampshire will strike out the portion relating to section 2, and offer only the portion relating to section 1.

The VICE PRESIDENT. The Senator from New Hampshire may modify his amendment. Under those circumstances the amendment is in order.

Mr. BRIDGES. I should like to say to the Senate that section 1 of my amendment, as read, is very clear. It is very simple, and is very short. The Senate also has heard read section 2, which will follow, and that will make the substitution complete.

Having heard section 1 read, and it being so short and simple, Senators should have no difficulty in understanding it. The subject matter as a whole has been thoroughly discussed. I do not believe there is any need for prolonging the debate. The amendment presents a different version and a different statement in substitution for the committee's words, which points out a fact that has been definitely made clear that there was no violation of a Senate rule or precedent.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from New Hampshire [Mr. BRIDGES] to the committee amendment on page 1.

Mr. DIRKSEN and other Senators requested the yeas and nays.

The yeas and nays were ordered.

Mr. WATKINS. Mr. President, may we have read for the information of the Senate the section on which we are about to vote?

The VICE PRESIDENT. For the information of the Senate, the clerk will read the amendment as modified.

The CHIEF CLERK. In lieu of the language of the committee beginning on page 1, line 5, it is proposed to insert the following:

The Senator from Wisconsin, Mr. McCARTHY, violated no rule, and no precedent in failing to appear before a subcommittee of the Senate when the matter of appearance before that subcommittee, by the letters of invitation issued by that subcommittee left appearance as a matter of the Senator's own discretion.

Mr. CASE. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. CASE. If the amendment should be agreed to, as I understand, Senate Resolution 301 would be amended to carry the language of the amendment, and then there would follow the words "is hereby condemned." Is that correct?

The VICE PRESIDENT. The Senator is correct.

Mr. BRIDGES. A parliamentary inquiry.

The VICE PRESIDENT. The Senator from New Hampshire will state it.

Mr. BRIDGES. If the amendment should be adopted, it would then be in order to strike the words referred to by the distinguished Senator from South Dakota. Is that correct?

The VICE PRESIDENT. At a later time the Senator from New Hampshire could move to strike out the words referred to by the Senator from South Dakota.

Mr. WATKINS. Mr. President, I do not desire to argue the matter, except to point out that it is a contradiction of the recommendation of the select committee in amendment 1, and it should be voted down, in my judgment.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from New Hampshire [Mr. BRIDGES] to the committee amendment. The yeas and nays have been ordered, and the Secretary will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCARTHY (when his name was called). Present.

The legislative clerk resumed and concluded the call of the roll.

Mr. SALTONSTALL. I announce that the Senator from Ohio [Mr. BRICKER], the Senator from Indiana [Mr. CAPEHART], and the senior Senator from Wisconsin [Mr. WILEY] are absent by leave of the Senate on official business.

The Senator from Connecticut [Mr. PURTELL] is necessarily absent.

On this vote, the Senator from Ohio [Mr. BRICKER] has a pair with the Senator from Tennessee [Mr. GORE], and the Senator from Indiana [Mr. CAPEHART] has a pair with the Senator from Florida [Mr. SMATHERS]. If present and voting, the Senator from Ohio [Mr. BRICKER] and the Senator from Indiana [Mr. CAPEHART] would each vote "yea," while the Senator from Tennessee [Mr. GORE] and the Senator from Florida [Mr. SMATHERS] would each vote "nay."

Mr. CLEMENTS. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Florida [Mr. SMATHERS] are absent by leave of the Senate on official business.

The Senator from Massachusetts [Mr. KENNEDY] is absent by leave of the Senate because of illness.

I announce further that the Senator from Tennessee [Mr. GORE] is paired on this vote with the Senator from Ohio [Mr. BRICKER]. If present and voting, the Senator from Tennessee would vote "nay," and the Senator from Ohio would vote "yea."

I announce also that the Senator from Florida [Mr. SMATHERS] is paired on this vote with the Senator from Indiana [Mr. CAPEHART]. If present and voting, the Senator from Florida would vote "nay," and the Senator from Indiana would vote "yea."

The result was announced—yeas 20, nays 68, as follows:

YEAS—20

Barrett	Hickenlooper	Martin
Bridges	Hruska	Millikin
Brown	Jenner	Mundt
Butler	Knowland	Schoeppel
Cordon	Kuchel	Welker
Dirksen	Langer	Young
Goldwater	Malone	

NAYS—68

Abel	Flanders	Mansfield
Aiken	Frear	McClellan
Anderson	Fulbright	Monroney
Beall	George	Morse
Bennett	Gillette	Murray
Burke	Green	Neely
Bush	Hayden	O'Mahoney
Byrd	Hendrickson	Pastore
Carlson	Hennings	Payne
Case	Hill	Potter
Chavez	Holland	Robertson
Clements	Humphrey	Russell
Cooper	Ives	Saltonstall
Cotton	Jackson	Scott
Daniel, S. C.	Johnson, Colo.	Smith, Maine
Daniel, Tex.	Johnson, Tex.	Smith, N. J.
Douglas	Johnston, S. C.	Sparkman
Duff	Kefauver	Stennis
Dworshak	Kerr	Symington
Eastland	Kilgore	Thye
Ellender	Lehman	Watkins
Ervin	Long	Williams
Ferguson	Magnuson	

NOT VOTING—7

Bricker	Kennedy	Wiley
Capehart	Purtell	
Gore	Smathers	

ANSWERED "PRESENT"—1

McCarthy

So the amendment offered by Mr. BRIDGES was rejected.

Mr. WELKER. Mr. President, I move to strike all that portion of Senate Resolution 301 in italics on page 1, beginning in line 5 and ending on line 5, page 2, with the word "condemned."

SEVERAL SENATORS. Vote! Vote!

The VICE PRESIDENT. The Chair will advise the Senator from Idaho that his motion is not in order, because he is including some of the original text of the resolution. If the Senator limits his motion so as to strike out the committee amendment alone, it will be in order.

Mr. WELKER. I thank the Chair. I shall omit, therefore, the last three words, "is hereby condemned."

The VICE PRESIDENT. The Chair will advise the Senator from Idaho that that motion is also not in order. Under the rules, the committee amendment must be acted upon before the text of the resolution is acted upon. If the Senator desires to move to amend the committee amendment or to strike a portion of the committee amendment, such a motion would be in order.

Mr. WELKER. Mr. President, I move that the words "is hereby condemned", appearing in the perfecting amendment proposed by the distinguished Senator from Utah, the last three words——

The VICE PRESIDENT. As the Chair has informed the Senator from Idaho previously, the portion he is attempting to strike by his motion is not a part of the committee amendment. Therefore, his motion to strike is not in order at this point.

Mr. JOHNSON of Texas. Mr. President, if we could have action on the committee amendment——

Mr. WELKER. I do not need any help. I have too many parliamentarians back here now. [Laughter.]

Mr. President, I move that the words "contrary to senatorial traditions" be stricken from the perfecting amendment.

The VICE PRESIDENT. That motion is in order.

SEVERAL SENATORS. Vote! Vote! Vote!

The VICE PRESIDENT. How much time does the Senator from Idaho yield himself?

Mr. WELKER. I yield myself as much time as I have.

The VICE PRESIDENT. The Senator from Idaho is recognized for 30 minutes.

Mr. WELKER. Mr. President, I regret very much that on a matter so serious as this I have heard from the Democratic side of the aisle cries of "Vote! Vote! Vote!"

I have tried to be fair and honest in this debate. When I originally spoke to this great body I stated that whatever I could do, I would do for any Member on the opposite side of the aisle, no matter how bitterly I might oppose him politically.

I think it comes with ill grace that a Senator who is trying to do something for a Member of this body—forget JOE MCCARTHY—is treated as I have just now been treated. But I shall not entertain any feeling of rancor or bitterness. I know this debate has gone on for a long time, and I know that patience has been exhausted.

I wish to say once again that this is a very, very serious matter.

Mr. WATKINS. Mr. President, may we have order?

The VICE PRESIDENT. The point of order is well taken. The Senator from Idaho will not proceed until the Senate is in order. The Senate will be in order. Those who desire to converse will retire to the cloakrooms.

The Senator from Idaho may now proceed.

Mr. WELKER. Mr. President, I do not intend to discuss the law or the precedents. For 2 days I discussed the law and the precedents; and I have yet to hear one of the learned judges, or one of the Members of the great committee, all of whom I admire, contradict successfully one iota of the law or the precedents which I have presented to this august body now sitting as some sort of court or tribunal.

Today I am convinced that it is not a tribunal; that it is not a court of law. It is a court of politics, pure and simple, which is out to destroy one of the Members of this body. At the next session of Congress the attack might well be directed against some of the Senators who have voted for censure. It might well be directed against Senators who have yelled "Vote", and who have voted against those of us who are trying to preserve the dignity and honor of the United States Senate.

It is unfortunate, indeed, that all of us cannot love and respect the same individual. What a perfect world this would be if we all had the same friends.

Today my name, for some reason, was placed with that of Senator MCCARTHY. In that speech, I assume that the person who included my name with that of Senator MCCARTHY thought that perhaps I would be destroyed along with MCCARTHY. Let me say to you, Mr. President, and to the world, that I am proud to be associated with Senator JOE MCCARTHY; indeed I am proud to be associated with any man who is engaged in fighting Communists, the Communists who are now attempting to destroy this world. So if that be the intention of the author of the remarks made this morning, I well accept it. If I am destroyed by virtue of the fact that I am trying to defend not only the junior Senator from Wisconsin [Mr. MCCARTHY], but any other Senator, regardless of political affiliation, then let the chips fall where they may.

I have heard a great deal about what this body is now attempting to do. In the hearings, I well recall the statement of the learned chairman, who was at one time a judge in the great State of Utah, my neighboring State, to the effect that the committee was going to follow judicial procedure as long as possible. I cannot quote him directly, because I am not reading from a manuscript.

I have heard it said that the select committee is composed, in part, of three great jurists. I have all the respect in the world for a jurist. Probably, no Member of this body has appeared before more jurists than has the junior Senator from Idaho. I have had the respect of any court before which I have ever appeared. But the fact that a Senator happened to be a judge at one time does not make him infallible. It does not make him any more brilliant than those who had to work for a living and practice law, and not be paid salaries by the taxpayers. I say this without trying to hurt the feelings of the jurists. I say that the jurists can be wrong; because if they were always right, there would never be occasion for an appellate court or a supreme court. As a matter of fact, if jurists were always right, there would never be any occasion for lawyers whatsoever.

I was astounded by certain remarks of my distinguished friend, the chairman of the select committee, when he objected to new evidence coming into the hearing, or whatever it might be called—a court, a tribunal, a political and personal tribunal, as I should like to call it; when he objected to referring new evidence to a duly constituted subcommittee of the Committee on the Judiciary of the Senate.

I know that the senior Senator from Utah has served with honor and glory upon that committee. So why should he hesitate to have all the facts brought before the American people? I do not know of any court, equity or otherwise, which will not permit a motion to be made for a new trial, when evidence has been disclosed to the court which might well change its findings.

Mr. President, I am informed that the junior Senator from Wisconsin is leaving the Chamber because his arm is paining him. He will not offend me by virtue of his departure.

Mr. MCCARTHY. I should like very much to remain and listen to the discussion by the Senator from Idaho, but unfortunately I must leave.

Mr. WELKER. I am quite certain that the Senator would see almost the same vote as heretofore. So let him have no illusions.

Mr. President, when the question was propounded to the chairman of the select committee as to whether or not the activities of the junior Senator from Vermont [Mr. FLANDERS], who is the author of Senate Resolution 301, should be censured or considered, if I remember correctly the chairman stated that the select committee had no obligation whatsoever to consider the allegations of the complaining witness. Mr. President, when in the history of any sort of jurisprudence did it ever happen that a tribunal could never consider the motives of a complaining witness, his interest, or his bias, in a case presented before that tribunal? It is a shocking revelation to me. I suppose if the Ku Klux Klan, should it exist today, were to help prepare censure resolutions against a few of the liberals, the committee would not take into consideration who helped prepare those charges.

Mr. President, the thing I am worried about, and I shall worry about it until the stepants carry me out the keyhole, is whether we shall have not destroyed the great honor and dignity of the United States Senate, rather than have preserved it. Heretofore I, as did the great and learned junior Senator from Illinois, have gone over many precedents and many occurrences that took place before

our very eyes. Nothing whatsoever was done about them. Here we sit as some sort of an agency, clothed in the spotless robes of a judicial tribunal. As the Senator stated, we are the sole judges of the law and the facts, we are clothed with that authority; and yet I think the tribunal is not the United States Senate, but the American people.

Mr. President, have no illusions. Does anyone assume that I am so naive as ever to expect that I could help when the vote is taken, when the press, the leftwing columnists, and the leftwing pseudo radio commentators, have been spewing out this propaganda against the man on trial today? The junior Senator from Wisconsin has had as much chance to win as a man would have to swim the ocean with an anvil under each arm.

I am not quite that naive. However, what I have to say will go into the RECORD. It may not be read, as the chairman of the select committee admitted today that he never read my opening speech on this question. Never did he know until today that I brought to the attention of the United States Senate and to the world the fact that all cross-examiners can make mistakes—all of them, Mr. President. He served upon a one-man committee, the Internal Security Subcommittee investigating infiltration of communism into labor unions, sitting in Cleveland, Ohio.

Mr. President, I am going to insist upon order.

The PRESIDING OFFICER (Mr. CASE in the chair). The Senate will be in order, and the cooperation of persons, the occupants of the galleries, will be appreciated.

Mr. WELKER. Mr. President, I know what the distinguished Senator from Utah went through in connection with that committee. Few of us in the Senate have taken as much abuse as a Senator has heaped upon him when he tries to investigate, under the investigatory power granted to committees by the Senate, those who we feel are seeking to destroy the United States.

Let me go back to the remarks made a few moments ago, in which the chairman of the select committee was very emphatic in his statements. Although he at first said he was unbiased, and that the decision was up to the Senate, yet he was demanding a verdict of guilty, if you please, in his speech. What did he say with respect to General Zwicker? He defended the original testimony of General Zwicker. I beg every Senator and everyone else to read it. I put that testimony into the RECORD, and I venture to say not six Senators read it.

Let us read the record and see if General Zwicker was not an evasive and an arrogant witness, such as the junior Senator from Idaho has never encountered in a courtroom, not even in a justice court. What happened? Taking the testimony from the cold black print, I am sure most people would be convinced that General Zwicker was arrogant and evasive. Then the select committee did a "retake" when he came in with counsel from the executive branch of the Government, the Army. The General was then a very suave and a very cooperative witness indeed.

Mr. President, I know of persons who are now confined behind brick or concrete walls. I wish I could have a retake of their original testimony.

What I lead up to is the salient fact that all cross-examiners can lose their tempers. The chairman of the select committee apologized for Mr. de Furia when he called the junior Senator from Wisconsin a word which was the equivalent of a high-classed liar. With his great legal ability, the chairman then stated that tempers get rough and violent when persons are attempting to cross-examine.

Let us go a bit further. Did the senior Senator from Utah remember this one-man committee over which he presided alone in Cleveland, Ohio, at the direction of the great junior Senator from Indiana [Mr. JENNER]? He had before him another human being, even though he did not wear the great uniform of the United States Army, with one star on it; and I respect that uniform as much as does any other Member of the Senate. That witness was not wearing the uniform, but, after all, he was a human being. He took an oath of office. He took the oath of an attorney, the most solemn oath I have taken in my life until God gave me the chance to come into this great body. That man bound himself to defend the defenseless and the oppressed at any cost, and what happened?

The senior Senator from Utah had completely forgotten about it, even though I spoke about it on the 17th day of November, as appears in the CONGRESSIONAL RECORD. I know he is a busy man, but we are supposed to take constructive notice of the CONGRESSIONAL RECORD, even though we cannot be in attendance on the Senate.

Mr. President, these are some of the facts. An attorney by the name of Scribner, who was admitted to the bar of the Supreme Court of the United States, was present representing a client. Whether the client was a Communist or not, I do not know, but there was some sort of argument between counsel and the witness. The chairman of the select committee accused the New York attorney of coaching the witness. However, the attorney was doing his job. He did not have a Presidential directive. He was being guided by the oath taken by an honorable attorney—the oath all lawyers take. After Mr. Scribner, the attorney from New York City, was accused by the chairman of the select committee of coaching the witness, Mr. Scribner asked this question:

> Mr. Chairman, will you state for the record that I have coached this witness?

He used rather mild language; many attorneys have used much more vicious or violent language than that. But as a result of that one request by that New York attorney, what happened? As I have said, Mr. President, that attorney has been admitted to practice before the Supreme Court of the United States, if you please; and that is a great honor. I know nothing about the reputation of that attorney; but he would have to be a rather good man, to be admitted to practice before the Supreme Court of the United States. At least, that is what I am told.

After that attorney asked the chairman of the committee, "Will you state for the record that I was coaching the witness?" what happened? The chairman of the select committee then said, "Put him out." That order came then from the chairman of the select committee, the distinguished senior Senator from Utah [Mr. WATKINS].

I mention these matters, Mr. President, to reiterate to Senators—and although I know their minds are made up, yet I also know that the minds of the American people are not made up—that all cross-examiners are not the same. A cross-examiner may get a little angry or confused and a little too vigorous when something happens, and then the cross-examination which results is not good.

Mr. President, I say to you that never in my life have I seen an attorney evicted from a courtroom or a hearing room. Let all Senators read the testimony I took from Mr. Scribner. It appears in the CONGRESSIONAL RECORD for November 17. Let Senators learn from it how embarrassed Mr. Scribner was. Certainly he was as embarrassed as General Zwicker was.

I cannot imagine what changed the thinking of those concerned, when at least two members of the select committee, and in my opinion at least three of them, were prejudiced. I say that because if you, Mr. President, were a lawyer trying a case, and if you saw news reports or statements to the effect that a judge in the case had made up his mind against an important witness or against the defendant—in this case, perhaps against General Zwicker, or against Senator MCCARTHY—then certainly you would wish to have that judge disqualified. Certainly any attorney worth his salt would seek to have such a judge disqualified. In this case, such members of the select committee should be disqualified, inasmuch as now they are attempting, in my opinion, to govern the activities and deliberations of every member—all 96 Members—of the Senate of the United States. To that I will never subscribe, Mr. President. I think we should sit here with honor as a tribunal, rather than be influenced by demands that, "If you do not vote such and such, you will be letting us down; you will be violating the vote you cast in assigning this job to us."

Mr. President, I have no use for cruel words against anyone. I hope I have many friends on the floor of the Senate. I have never wilfully tried to abuse anyone. If I have abused anyone, I am sorry, because that has never been my intention. I have observed that a lawyer never wins a lawsuit by overtrying his case.

Mr. President, I was somewhat astounded when I heard it said that the junior Senator from Wisconsin had said the members of the select committee were "unwitting handmaidens of the Communist Party." I know that every member of that committee certainly is just as loyal to the Government of the United States as is the junior Senator from Idaho; and I firmly believe that. In fact, I know it; there is no question

about it in my mind. But human minds might be taxed at times, Mr. President.

In this instance we are dealing with a man, a Member of this body, elected to this body by one of the greatest States in the Union, the sovereign State of Wisconsin. He has been continuously on trial for approximately 10 months, as I recall. Whose patience would not be at an end under such circumstances, Mr. President?

So when he used the words "unwitting handmaidens," let us ascertain the definitions of those terms. I have heard definitions of the Communist Party; and I have heard either the chairman of the select committee or the junior Senator from Utah [Mr. BENNETT] make statements to the effect that to call one a Communist is libelous or slanderous, and that money damages may be collected for doing it. So I assume that in some States it would be criminal libel to call a person a Communist. In this instance, let us ascertain the meaning of the words "unwitting handmaidens." I have heard the word "handmaidens" defined, but I have not heard the definition of "unwitting," as stated in Webster's dictionary. At this time let me read the definition of the word "unwitting," as it appears in Webster's Dictionary: "not knowing, unaware, unconscious, unintentional."

How about the word "handmaiden," Mr. President? Today I spoke a little regarding whether that was so vicious a term. During the debate it has been referred to as a vulgar term, something very low down, indeed. However, if I correctly remember Holy Scriptures, that word comes from the greatest book ever written, the Bible. I now quote from the Bible, and I think I shall quote correctly. As I recall, we find the following in Holy Scripture: "Behold the handmaid of the Lord."

That was the answer of the Mother of Christ to the Angel Gabriel who brought her the message that she was to become the Mother of Christ.

Mr. President, let me ask how much time remains to me?

The PRESIDING OFFICER. The Senator from Idaho has 1 minute remaining.

Mr. WELKER. Mr. President, on the basis of some new evidence which has recently been discovered—and I assure Senators that it came to my attention not more than 40 minutes ago—I should like to have some member of the Hennings-Gillette subcommittee tell me whether or not paragraph 5 of the minutes of a subcommittee meeting of November 19, 1952, reads as follows:

Mr. Cotter reported on the Benton inquiry. Mr. Fosner outlined developments on Cosgriff Field investigation, etc. Committee approved subpenaing Riggs special account on this phase only and that no further hearings need be held—

I invite the attention of the judges and jurors to this language. In my opinion they are about to make one of the most momentous mistakes in the history of the United States Senate. Listen to this—

and that no further hearings need be held as Benton's testimony can be used in conjunction with our findings to write a complete report * * * but we are not to concern ourselves with tax angles.

The PRESIDING OFFICER. The Chair advises the Senator from Idaho that his time has expired.

Mr. WELKER. I thank the distinguished Presiding Officer.

Mr. President, at this time I withdraw my amendment.

The PRESIDING OFFICER. The Senator from Idaho withdraws his amendment.

The question is on agreeing to the committee amendment to section 1, as modified.

Mr. KNOWLAND. I ask for the yeas and nays on the committee amendment, as modified.

The yeas and nays were ordered.

Mr. KNOWLAND. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Abel	Fulbright	Mansfield
Aiken	George	Martin
Anderson	Gillette	McClellan
Barrett	Goldwater	Millikin
Beall	Green	Monroney
Bennett	Hayden	Morse
Bridges	Hendrickson	Mundt
Brown	Hennings	Murray
Burke	Hickenlooper	Neely
Bush	Hill	O'Mahoney
Butler	Holland	Pastore
Byrd	Hruska	Payne
Carlson	Humphrey	Potter
Case	Ives	Purtell
Clements	Jackson	Robertson
Cooper	Jenner	Russell
Cotton	Johnson, Colo.	Saltonstall
Daniel, S. C.	Johnson, Tex.	Schoeppel
Daniel, Tex.	Johnston, S. C.	Scott
Dirksen	Kefauver	Smith, Maine
Douglas	Kerr	Smith, N. J.
Duff	Kilgore	Sparkman
Dworshak	Knowland	Stennis
Eastland	Kuchel	Symington
Ellender	Langer	Thye
Ervin	Lehman	Watkins
Ferguson	Long	Welker
Flanders	Magnuson	Williams
Frear	Malone	Young

The PRESIDING OFFICER. A quorum is present.

Mr. CASE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CASE. At the time the Senate began the consideration of Senate Resolution 301, the junior Senator from South Dakota invited attention to the fact that the acts dealt with under the amendments to section 1 consisted largely of acts which occurred prior to the opening of the 83d Congress.

In that connection I called attention to the fact that at the time the late Senator Taft commented upon the status of Senators who were sworn in at that time he alluded to the fact that in the Langer case the Senate, by majority vote, had determined that a two-thirds vote would be required in dealing with acts which, in that case, took place prior to the election.

So I submitted a parliamentary inquiry as to whether or not a two-thirds vote would be required in dealing with the amendments to section 1. The junior Senator from California [Mr. KUCHEL] was in the chair at the time. He decided to take the question under advisement, after consultation with the Parliamentarian. I am advised that the Parliamentarian has considered the question and is now in a position to advise the Chair on the point. I therefore ask for a ruling at this time.

The PRESIDING OFFICER. The Chair will state that the Parliamentarian has handed him a memorandum on the question raised by the Senator from South Dakota.

The Chair will read the memorandum of the Parliamentarian, with which the Chair agrees:

Section 1 of the pending resolution (S. Res. 301) to censure the junior Senator from Wisconsin contains a committee amendment striking out certain language beginning on page 1, in line 1, as follows:

"The conduct of the Senator from Wisconsin, Mr. MCCARTHY, is unbecoming a Member of the United States Senate, is contrary to senatorial traditions, and tends to bring the Senate into disrepute, and such conduct"

And inserting in lieu thereof the following:

"The Senator from Wisconsin, Mr. MCCARTHY, failed to cooperate with the Subcommittee on Privileges and Elections of the Senate Committee on Rules and Administration in clearing up matters referred to that subcommittee which concerned his conduct as a Senator and affected the honor of the Senate and, instead, repeatedly abused the subcommittee and its members who were trying to carry out assigned duties, thereby obstructing the constitutional processes of the Senate, and that this conduct of the Senator from Wisconsin, Mr. MCCARTHY, in failing to cooperate with a Senate committee in clearing up matters affecting the honor of the Senate is contrary to senatorial traditions and"

Then the words of the text retained, namely, "is hereby condemned", follow.

The Senator from South Dakota [Mr. CASE], stating that the above language dealt largely with incidents occurring during the term of the Senator from Wisconsin [Mr. MCCARTHY] which ended on January 2, 1953, submitted to the temporary Presiding Officer [Mr. KUCHEL] for consideration a parliamentary inquiry whether, in view of the fact that such incidents occurred prior to the beginning of Mr. MCCARTHY's second term on January 3, 1953, a majority vote or a two-thirds vote of the Senate was required in acting upon the amendment.

Under the practice of the Senate, the question of a two-thirds vote cannot properly be raised at this time on an amendment, regardless of its nature, to Senate Resolution 301. A majority vote only is necessary on any amendment proposed to the pending resolution, as is the case with amendments proposed to treaties or constitutional amendments. If the pending amendment to section 1 of Senate Resolution 301 is adopted, the appropriate time to raise the question of the necessity for a two-thirds vote would be on the final adoption of the resolution, as amended.

Rule XXXVII of the Standing Rules of the Senate, relating to proceedings on treaties, contains a paragraph as follows:

"On the final question to advise and consent to the ratification (of the treaty) in the form agreed to, the concurrence of two-thirds of the Senators present shall be necessary to determine it in the affirmative; but all other motions and questions upon a treaty shall be decided by a majority vote, except a motion to postpone indefinitely, which shall be decided by a vote of two-thirds."

There are many precedents in both the Senate and the House of Representatives which hold that proposed amendments to the Constitution may be amended by a majority vote.

On February 9, 1872 (Hind's Precedents of the House of Representatives, vol. V, sec. 7032), the Senate, by a vote of 29 yeas, 28 nays, adopted an amendment to a bill for the removal of legal and political disabilities imposed by the third section of article XIV of the Constitution, although on final passage the bill did not receive the necessary two-thirds vote.

On December 18, 1917 (65th Cong. 2d sess., RECORD, p. 477), in acting upon amendments of the House of Representatives to Senate Joint Resolution 17, the national prohibition amendment, Vice President Marshall held that an amendment to a resolution proposing an amendment to the Constitution of the United States needed only a majority in order to be adopted, but that it was necessary to have a two-thirds vote on the adoption of the House amendments, for that constituted the final passage of the resolution.

On April 13, 1900 (56th Cong., 1st sess., RECORD, p. 4128), the House was considering House Joint Resolution 28, proposing an amendment to the Constitution. A substitute having been offered, a point of order was made by Mr. Corliss, of Michigan, that, as the original resolution would require a two-thirds vote for its passage, the amendment should also receive a two-thirds vote.

The Speaker (David B. Henderson, of Iowa), overruling the point of order, said:

"The Chair holds that in voting upon an amendment it is not necessary for a two-thirds vote, although the original proposition requires it. When the House considers any amendment, it can be voted upon in the usual way; and this proposition * * * is but an amendment. When it comes, however, to the passage of the bill, then the point can be made. The Chair overrules the point made by the gentleman from Michigan at this time."

Under the practice and precedents, the Chair therefore is of the opinion that only a majority vote is required in passing upon the committee amendment to section 1, and that the question of a two-thirds vote, in the event the amendment is adopted, can only be raised on the question of agreeing to Senate Resolution 301, as amended.

The yeas and nays have been ordered on the pending question, which is on agreeing to the committee amendment on page 1, as modified by the chairman of the committee. The Secretary will call the roll.

The Chief Clerk called the roll.

Mr. SALTONSTALL. I announce that the Senator from Ohio [Mr. BRICKER], the Senator from Indiana [Mr. CAPEHART], and the senior Senator from Wisconsin [Mr. WILEY] are absent by leave of the Senate on official business.

The junior Senator from Wisconsin [Mr. MCCARTHY] is necessarily absent, and the Senator from Oregon [Mr. CORDON] is absent on official business.

On this vote, the Senator from Ohio [Mr. BRICKER] has a pair with the Senator from Tennessee [Mr. GORE], and the Senator from Indiana [Mr. CAPEHART] has a pair with the Senator from Florida [Mr. SMATHERS]. If present and voting, the Senator from Ohio [Mr. BRICKER] and the Senator from Indiana [Mr. CAPEHART] would each vote "nay" while the Senator from Tennessee [Mr. GORE] and the Senator from Florida [Mr. SMATHERS] would each vote "yea."

Mr. CLEMENTS. I announce that the Senator from New Mexico [Mr. CHAVEZ] is unavoidably detained on official business and, if present, would vote "yea."

The Senator from Tennessee [Mr. GORE] and the Senator from Florida [Mr. SMATHERS] are absent by leave of the Senate on official business.

The Senator from Massachusetts [Mr. KENNEDY] is absent by leave of the Senate because of illness.

I announce further that the Senator from Tennessee [Mr. GORE] is paired on this vote with the Senator from Ohio [Mr. BRICKER]. If present and voting, the Senator from Tennessee would vote "yea," and the Senator from Chio would vote "nay."

The Senator from Florida [Mr. SMATHERS] is paired on this vote with the Senator from Indiana [Mr. CAPEHART]. If present and voting, the Senator from Florida would vote "yea," and the Senator from Indiana would vote "nay."

The result was announced—yeas 67, nays 20, as follows:

YEAS—67

Abel	Fulbright	Millikin
Aiken	George	Monroney
Anderson	Gillette	Morse
Beall	Green	Murray
Bennett	Hayden	Neely
Burke	Hendrickson	O'Mahoney
Bush	Hennings	Pastore
Byrd	Hill	Payne
Carlson	Holland	Potter
Case	Humphrey	Robertson
Clements	Ives	Russell
Cooper	Jackson	Saltonstall
Cotton	Johnson, Colo.	Scott
Daniel, S. C.	Johnson, Tex.	Smith, Maine
Daniel, Tex.	Johnston, S. C.	Smith, N. J.
Douglas	Kefauver	Sparkman
Duff	Kerr	Stennis
Eastland	Kilgore	Symington
Ellender	Lehman	Thye
Ervin	Long	Watkins
Ferguson	Magnuson	Williams
Flanders	Mansfield	
Frear	McClellan	

NAYS—20

Barrett	Hickenlooper	Martin
Bridges	Hruska	Mundt
Brown	Jenner	Purtell
Butler	Knowland	Schoeppel
Dirksen	Kuchel	Welker
Dworshak	Langer	Young
Goldwater	Malone	

NOT VOTING—9

Bricker	Cordon	McCarthy
Capehart	Gore	Smathers
Chavez	Kennedy	Wiley

So the committee amendment, as modified, on page 1 was agreed to.

Mr. WATKINS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. IVES. Mr. President, I move to lay that motion on the table.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from New York to lay on the table the motion of the Senator from Utah.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. The question now recurs on the committee amendment inserting section 2.

Mr. CASE. Mr. President, the Secretary of the Army addressed a letter to me, in Washington, under date of November 24, 1954, while I was in the State of South Dakota for Thanksgiving. So I did not receive and read the letter until Monday night, and I replied to it yesterday. I have talked with the Secretary, and it is with his knowledge that I now ask unanimous consent that the letter of the Secretary of the Army, dated November 24, 1954, and my reply, dated November 30, 1954, both dealing with the so-called Zwicker-Peress matter, be printed in the RECORD.

The VICE PRESIDENT. Is there objection?

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

EXHIBIT 1

UNITED STATES SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D. C., November 30, 1954.

The Honorable ROBERT S. STEVENS,
Secretary of the Army, Department of the Army, Washington, D. C.

MY DEAR MR. SECRETARY: I greatly appreciate your letter of November 24 which I read last night (Monday) as I tried to catch up on mail which came while I was in South Dakota over Thanksgiving.

I readily agree that there is "a great difference between an error of judgment, if such was the case, and a breach of good faith." So, I can understand why you might be disturbed by a newspaper report that I had used the phrase "a breach of good faith" as the account did not fully reflect the setting in which the phrase was used.

Count No. 2 of the committee's recommendations deals with the denunciation of General Zwicker and uses these words: "thereby tending to destroy the good faith which must be maintained between the executive and legislative branches in our system of government."

Those words were inserted as a sort of yardstick to draw the line between the proper use of free speech and such abuses of it as would warrant censure for words spoken off the floor of Congress.

As you know, the Constitution says that for words spoken on the floor of either House of Congress, Members shall not be held to account elsewhere. That, of course, is to insure for legislators the right to question the conduct of public affairs even when full proof of some suspicions may not be at hand. Senate rules provide for making a Senator sit down when he speaks ill of another Senator or State on the floor of the Senate.

But what yardstick exists or can be used to determine when derogatory language used by a Senator off the floor about a witness representing the executive branch warrants censure by the Senate? There is no written rule on that point. So, we fall back on the constitutional authority to "punish for disorderly conduct" and the inherent right and responsibility of a legislative body to preserve itself and its responsibility to protect the Government of which it is a part.

Personally, as a result of listening and reading and thinking during the consideration of the censure resolution, I have come to accept as a sure yardstick this proposition:

"Conduct, including the use of derogatory language, warrants censure if it obstructs, corrupts, destroys or actually tends to obstruct, corrupt or destroy governmental processes."

So, in the belief that Senator MCCARTHY's denunciation of General Zwicker tended to "destroy the good faith essential between the executive and legislative branches of the Government," I originally concurred in the opinion of the other members who heard General Zwicker testify (I did not) that censure was warranted on that ground.

However, that opinion rested upon the impression gained from your letter of February 16, the only documentary evidence in the committee hearings on that point, that Senator MCCARTHY's letter of February 1 asked for the recall and court-martial of Major Peress after he had been discharged.

You will recall that the staff prepared letter of February 16 to Senator MCCARTHY which carried your signature said:

"The suggestion which you made in your letter (February 1) that the officer's dis-

charge should be reversed and that he should be recalled for the purpose of court-martial on charges of conduct unbecoming an officer have been examined and appear to be impracticable. In the first place the separation of an officer under circumstances such as this is a final action, and there is no means of which I am aware by which the action could be successfully reversed."

Not until I read the full text of Senator McCarthy's letter, which you brought to Senator Watkins' office on November 13, did I realize that he had clearly sought to forestall the Peress discharge before it happened and that, as chairman of a Senate subcommittee, he was suggesting you file charges and retain jurisdiction over Peress on the basis of evidence in his possession and the conduct of Peress before his committee on Saturday, January 30.

That was why I asked when Senator McCarthy's letter was received at the Pentagon and how it was handled. Your personally prepared answer written to Senator Watkins later on November 13 said:

"In response to the questions raised by Senator Case in your office this morning regarding the receipt and processing of the letter from Senator McCarthy dated February 1, 1954, I have investigated the records of my office and find that this letter was hand carried to my office sometime during the day on February 1. As you will recall, I had not yet returned from a trip to the Far East on this date. * * *

"Mr. Adams made known the receipt of the letter to the responsible Army staff. After review of the letter, it was concluded that there was no additional evidence to require modification of the prior determination in the Peress case which had been based on all the available information known at that time, and that the best interests of the United States would be served by his prompt separation, a matter which was about to be consummated."

When I read that, of course, it destroyed the basis for my opinion that the breakdown of good faith originated with Senator McCarthy's intemperate denunciation of General Zwicker, for it established that the letter of the chairman of the Senate investigating committee to the head of a Government department suggesting filing of charges was received and reviewed prior to the final action of separation—the honorable discharge for Peress on the afternoon of February 2.

Recalling that General Zwicker testified that he had telephoned his superior next in line, Chief of Staff, First Army, that Peress had come in Monday morning, February 1, and asked for immediate discharge, it seemed to me that the original breach of faith was at the other end of the street—the granting of the request of a Communist who wanted to get out of the Army's jurisdiction with an honorable discharge and rejecting the suggestion of the chairman of a Senate investigating committee to file charges and to institute investigation of his activities and those of persons responsible for his promotion, change of orders, etc.

That was why I did not think the Senate had a good foundation for predicating censure of a Senator for a breach of good faith between the legislative and executive branches of Government.

I readily agree that when Senator McCarthy's letter reached you February 5 you took prompt and commendable action on the chairman's second and third suggestions. The unfortunate thing, however, was the hasty rejection of his first suggestion the day before you returned from Japan. It is not your fault that the door was locked too late and neither was it Senator McCarthy's and neither was it General Zwicker's. But, should Senator McCarthy be censured because he lost his patience when his efforts to lock the door in time were tossed aside?

I readily agree with the statement in your letter that "the Peress case was badly handled" and that you "took prompt measures after returning from the Far East to preclude the possibility of a recurrence of such a situation." My use of the phrase, "breach of good faith," was never applied to the steps which you as Secretary of the Army took after you returned on the second and third suggestions in the McCarthy letter.

It was used, as I trust is now clear, only with respect to the action on the first suggestion, as the counterpart and basic cause of Senator McCarthy's final loss of patience at the Zwicker hearing.

I do appreciate your writing and giving me this opportunity to clarify the matter.

Sincerely yours,

Francis Case,
South Dakota.

Department of the Army,
Washington, November 24, 1954.

Hon. Francis Case,
United States Senate,
Washington, D. C.

Dear Senator Case: Last Friday the newspapers carried reports indicating your feeling that the manner of handling Senator McCarthy's letter of February 1 by the Army was "a breach of good faith." While I appreciate the sincerity of any statement made by you, I was naturally, as Secretary of the Army, disturbed by this statement. Human beings are not infallible and I fully appreciate that it can be argued that the Army's handling of Senator McCarthy's letter of February 1 was faulty. I am sure you will agree, however, that there is a great difference between an error of judgment, if such was the case, and a breach of good faith. It is my considered opinion, after carefully reviewing all the facts, that there was not a breach of good faith by the Army in this case.

In his letter of February 1, Senator McCarthy made three suggestions, which, if I may summarize, were:

1. That court-martial proceedings be immediately instituted against Major Peress;

2. That a thorough investigation be made to disclose the names of officers responsible for handling of the Peress case with a view to their courts-martial;

3. That a complete investigation be made by the Inspector General to determine who was responsible for change of Peress' overseas orders with a view to courts-martial.

You refer to the Army's handling of this letter as follows: "The staff did not show any respect to the letter from the Chairman of a Senate committee. * * *" It seems unfortunate to me that you have drawn such a conclusion. On being informed of the Peress matter when I returned from the Far East on February 3, I promptly directed the Inspector General of the Army to conduct a thorough and detailed investigation of all the circumstances surrounding Peress' induction, change of orders, promotion, and separation from the Army. After reading Senator McCarthy's letter I felt, and I am sure you will agree with me, that this action on my part was in harmony with the latter two suggestions he made.

The remaining suggestion—that Peress be court-martialed—was carefully reconsidered by the staff upon receipt of Senator McCarthy's letter. In view of Peress' imminent separation, time was of the essence. It is appropriate, however, to recall that the staff had only recently completed a careful study of this identical question. The conclusion was reached that Senator McCarthy's letter did not furnish new evidence to warrant the retention of Major Peress in the service for possible court-martial. That conclusion may be argued to have been an error. I do not consider it a breach of good faith.

Recognizing your most conscientious, searching and fair-minded approach to every matter with which you come in contact, I feel that it is appropriate for me to express my views to you in a constructive and respectful manner. It is my feeling that you would not wish to leave with the Senate an accusation of bad faith by the Army in this matter. It may well be that, if I had not gone to the Far East at that time in connection with vital military matters, Senator McCarthy's letter would have been handled differently. In my absence, however, a certain course of action was followed. After investigation I can find no evidence of bad faith by those who handled the matter. The Peress case had been carefully studied over a long period of time and a definite decision to release him as promptly as possible had been made. I can assure you that there was no question involved of giving "priority to the request of Major Peress for an immediate discharge."

As you are aware, I readily admitted in my letter of February 16 to Senator McCarthy that there were defects in the Army procedures for handling men called to duty under the provisions of the Doctor Draft Act. The Peress case was handled badly and I took prompt measures, after returning from the Far East, to preclude the possibility of a recurrence of such a situation. When I received the results of the Inspector General's investigation I communicated with the Chairman of the Special Investigating Committee and on June 23, in accordance with Senator McCarthy's request, submitted in confidence a list of officers determined by the Inspector General to have had primary responsibility for personnel actions pertaining to Peress. These things do not appear, in all fairness, to add up to breaking faith by the Army. I sincerely hope you will find it appropriate to modify the language.

With my thanks for your consideration of this matter and with highest personal regards, I am,

Yours sincerely,

Robert T. Stevens,
Secretary of the Army.

SCHEDULE FOR THIS EVENING AND TOMORROW

Mr. KNOWLAND. Mr. President, a number of Senators have requested information relative to the program of the majority leader for the remainder of this evening and for tomorrow. I have told them that the Senate would sit this evening until approximately 7 o'clock, or a little later, if necessary, and that if section 1 were disposed of, I would recommend that the Senate recess until 10 o'clock tomorrow morning. It is my belief that we can finish at an early hour tomorrow afternoon. We have had a long day, from 9:30 this morning, and a number of Senators have stated that they would not like to have an extended session tonight. It is my recommendation that we recess at this time and meet at 10 o'clock tomorrow morning.

Mr. JOHNSON of Texas. Mr. President, will the Senator from California yield?

Mr. KNOWLAND. I yield.

Mr. JOHNSON of Texas. I wonder if the distinguished Vice President will inform us as to how many amendments remain.

The VICE PRESIDENT. At the present time there is, of course, the committee amendment, and in addition to that, the amendment of the Senator from Utah [Mr. Bennett] and the amendment of the Senator from Colorado [Mr.

JOHNSON]. There are those two amendments pending.

Mr. JOHNSON of Texas. So far as the majority leader is aware, are there any other amendments?

Mr. KNOWLAND. There are none of which I have any knowledge, nor do I have reason to believe that any more will be offered.

Mr. HICKENLOOPER. Mr. President, will the Senator from California yield?

Mr. KNOWLAND. I yield.

Mr. HICKENLOOPER. I think it is only fair to say that I will have an amendment.

Mr. JOHNSON of Texas. The Senator from Iowa contemplates offering an amendment. So there will be 4 amendments.

Mr. President, I have no objection to the suggestion made by the majority leader.

ALLEGED MAIL COVERS

Mr. KNOWLAND. Mr. President, earlier in the afternoon the junior Senator from Wisconsin raised a certain question on the floor regarding the so-called mail cover, and submitted certain information, none of which I had been aware of before. The junior Senator from Wisconsin also made available to the majority leader what purports to be photostats of certain letters, one being under date of October 23, 1952, addressed to the postmaster at Kensington, Md.; another one, under date of October 22, purporting to be addressed to the postmaster at Washington, D. C.; another October 22, also addressed to the postmaster at Washington, D. C.; another one dated November 5, purporting to be addressed to the postmaster at Washington, D. C.; and one dated November 5, also purporting to be addressed to the postmaster at Washington, D. C.; together with certain photostats of what appears to have been foolscap paper containing certain names, from certain persons to certain persons, which presumably are the result of the postal or mail cover, whatever that may mean.

During the time the matter was being presented the distinguished Senator from Iowa [Mr. GILLETTE] had gone over to the Senator from Wisconsin [Mr. MCCARTHY] at the time I was talking to him, to see just what this information was, and pointed out that he hardly believed his name would have been used on these purported letters, because it was his recollection that he had actually resigned as chairman of the committee prior to the dates on these letters. Subsequent to that time, the distinguished senior Senator from Arizona, the then chairman of the Committee on Rules and Administration, and now one of the most distinguished Members of this body, pointed out to me in the report on the resolution of censure, on page 18, item 62, the information that "Chairman GILLETTE resigned as a member of the subcommittee on September 26, 1952"—page 294 of the hearings.

In any event, the Senator from Iowa had no recollection of having signed the letters, and, as I understand, had no prior knowledge of such letters being sent.

The Senator from Arizona [Mr. HAYDEN] had indicated to me—and he is here and can correct me if I am wrong—that he had not signed the letters, nor were the letters sent with his knowledge or consent.

What I am about to say is hearsay, because I did not personally discuss it with the Senator from Missouri [Mr. HENNINGS]; but I had understood from the Senator from Arizona [Mr. HAYDEN] that the Senator from Missouri had no recollection of having signed such letters or of the letters having been sent.

Mr. HENNINGS. Mr. President, will the Senator yield?

Mr. KNOWLAND. I yield.

Mr. HENNINGS. I may say, with respect to that, that never in my life had I heard the phrase "mail cover" used until the distinguished junior Senator from Indiana [Mr. JENNER] used it at the time of the debate last fall. I did not know what a mail cover purported to do. I, of course, had never seen any of the letters exhibited here today. I knew nothing whatever about any such action having been taken.

Having conferred with the Senator from Iowa [Mr. GILLETTE] and the Senator from Arizona [Mr. HAYDEN], and other members of the committee, we all agreed that none of us recalled the matter ever having been discussed.

Mr. KNOWLAND. I understand the same thing applies to the Senator from New Jersey [Mr. HENDRCKSON], the other member of the subcommittee, for as long as he was a member of the subcommittee.

Mr. HENDRICKSON. I was the minority member of the subcommittee.

Mr. HENNINGS. May I inquire of the distinguished majority leader whether this is violative of law; and, if so, what section of the law? I think it would have a bearing on the relevancy of any inquiry, because the Post Office Department would be involved.

Mr. KNOWLAND. I am practically in the same boat as is the Senator from Missouri, because when the phrase "mail cover" was used some weeks ago, I had no idea what a mail cover was. I made some inquiries at the time. I am not an attorney. I do not know whether such a practice is a violation of any law or postal regulation.

I do not wish to delay the proceedings, because I believe it is important that we conclude the pending business tomorrow as early as possible, so that the Senate can adjourn sine die. The Senate will have my full cooperation so to do. But as a matter of public policy, if it is a fact that neither the chairman of the committee, the Senator from Iowa [Mr. GILLETTE], nor the Senator who succeeded him, the Senator from Missouri [Mr. HENNINGS], nor the Senator who was chairman of the full committee, the Senator from Arizona [Mr. HAYDEN], nor the minority member, the Senator from New Jersey [Mr. HENDRICKSON], had any knowledge of the letters being sent, and had not seen them and had not authorized them, and if the committee itself had taken no action, I think it is a matter of high public policy whether an employee of any committee of the Senate can have the mail of any Senator covered, whether he be Republican or Democrat, on either side of the aisle, so as to determine who is writing to him and to whom he is writing. I believe this is a matter of public policy which affects the dignity of the Senate. I think we are entitled to know what the facts are. We should know whether a law has been violated, if an employee has exceeded his authority, and the number of other Senators whose mail is being subjected to an intelligence check.

Mr. HENNINGS. I quite agree with the distinguished majority leader. For my part, it never occurred to me, and I am certain it never occurred to any other members of the committee, to have a surreptitious check made of the mail of any Member of the Senate.

Mr. KNOWLAND. I have full confidence in the integrity and ability of the distinguished Senator from Missouri, the distinguished Senator from Arizona, the distinguished Senator from Iowa, and the distinguished Senator from New Jersey. I merely wish to say that if someone exceeded his authority, I think it is time the Senate put a stop to it, and that a situation of this kind should not be allowed to develop in the future without its being properly authorized by a committee of the Senate, if indeed any committee has the power to do so.

Mr. HENDRICKSON. Mr. President, will the Senator from California yield?

Mr. KNOWLAND. I yield.

Mr. HENDRICKSON. I fully share the views of the distinguished majority leader on this subject; thus, I wish to associate myself with everything he has said.

Mr. KNOWLAND. Mr. President, I shall be glad to yield to other Senators, but first, on behalf of myself and the Senator from Texas [Mr. JOHNSON], the minority leader, I submit a resolution and ask that it be read for the information of the Senate.

The VICE PRESIDENT. The clerk will read the resolution for the information of the Senate.

The legislative clerk read the resolution (S. Res. 332), as follows:

Resolved, That the senior Senator from Michigan [Mr. FERGUSON] and the senior Senator from Georgia [Mr. GEORGE] are hereby constituted a special committee of the Senate to make a full and complete investigation for the purpose of determining all of the facts with respect to (1) whether or not during any period of time there has been maintained a cover on mail to or from the junior Senator from Wisconsin [Mr. MCCARTHY], or such mail has been otherwise handled in any special manner and without authorization from the junior Senator from Wisconsin, for the purpose of ascertaining the contents thereof or the identity of persons corresponding with the junior Senator from Wisconsin, and (2) in the event the committee determines that any such cover has been maintained or such mail has been so handled, the person or persons responsible therefor, the period during which such cover was maintained or such mail was so handled, and all other matters connected with the maintenance of such cover or so handling such mail. The committee shall report to the Senate at the earliest practicable date

the results of its investigation and shall cease to exist upon the filing of its report.

SEC. 2. (a) The committee is authorized to sit and act at such places and times during the sessions, recesses, and adjourned periods of the Senate, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems advisable.

(b) The committee is empowered to appoint and fix the compensation of such experts, consultants, and clerical and stenographic assistants as it deems necessary.

(c) The expenses of the committee, which shall not exceed $2,500, shall be paid from the contingent fund of the Senate upon vouchers approved by the committee.

Mrs. SMITH of Maine. Mr. President, will the Senator from California yield?

Mr. KNOWLAND. I yield.

Mrs. SMITH of Maine. Would the Senator from California be willing to amend his resolution so as to include all Senators, and not merely any single one?

Mr. KNOWLAND. I shall be glad to do so. I shall modify it so as to make it apply to the junior Senator from Wisconsin or to any other Member of the Senate.

Mr. WELKER. Mr. President, will the Senator yield?

Mr. KNOWLAND. I yield.

Mr. WELKER. Would tne Senator be kind enough to include in his resolution the fact that the select committee had in its files records, which were taken from the telephone company here, of every telephone call sent from the office of the junior Senator from Wisconsin? Those records were received and were in the files of the select committee, which according to the order of the Senate, was supposed to obtain all the evidence possible. I shall be glad to submit a photostatic copy of the document which happened to be in the files of the select committee, but which was not acted upon, so far as I know.

Mr. KNOWLAND. I do not wish to extend this to a general investigation. We have one matter before us which was called to the attention of the Senate, upon which we have certain information. I think it is a matter which could be cleared up, and should be cleared up before the Senate meets tomorrow, or certainly sometime during the morning. The committee would have the power to subpena the necessary witnesses and to get the originals of the letters, or copies of them, from the Post Office Department, with the assistance, I assume, of the postal inspectors, and would be able quickly to clear this matter up, because I think a matter of high public policy is involved.

Mr. WELKER. Mr. President, will the Senator yield for one more question?

Mr. KNOWLAND. I yield.

Mr. WELKER. Since the Senator from California has said he does not care to amend his resolution with respect to the telephone calls which were made in the office of the junior Senator from Wisconsin, would the Senator amend the resolution to include any activity on the part of the telephone company or any other individual which caused to be made a list of telephone calls from the office of any other Senator?

Mr. KNOWLAND. If the Senator from Idaho has information in that regard, I see no reason why the matter should not be brought to the attention of the Senate. But time is of the essence in this particular matter.

I believe that in the distinguished Senator from Georgia [Mr. GEORGE] and the distinguished Senator from Michigan [Mr. FERGUSON] we have perhaps two Senators who not only have the confidence of the Senate, but who have had considerable legal experience.

I think the matter can be acted upon promptly, and a determination can be made whether employees of the Senate, without the authority of any Senate committee, or without the authority of the chairman of any committee, are permitted to tamper with the mails in the way it is alleged to have been done.

Mr. LEHMAN. Mr. President, will the Senator from California yield for a question?

Mr. KNOWLAND. I yield to the Senator from New York.

Mr. LEHMAN. I understand the resolution applies to mail covers in the case of all Senators and of all authorized committees. It seems to me if the Senate is going to look into the question, and I agree with the Senator from California that this is a matter of public policy, we ought to make sure that there is no mail cover on any Senator, and that there is no illegal action taken by any committee.

Mr. KNOWLAND. I would say to the Senator from New York that I would be as incensed if any mail cover applied to any Senator on the other side of the aisle as I would be if it applied to Senator MCCARTHY or any other Senator on this side of the aisle. If we cannot unite on anything else, I think this is a question on which we can unite. It would be unsound public policy, and no unauthorized person should be permitted, without any authority under the rules of the Senate or of a standing committee of the Senate, to tamper with the mail of Senators who represent the 48 States of the Union.

Mr. MUNDT. Mr. President, will the Senator yield?

Mr. KNOWLAND. I yield to the Senator from South Dakota.

Mr. MUNDT. Are the terms of the resolution sufficiently broad to permit the determination of the identity of whoever may have forged a document?

Mr. KNOWLAND. I think there is ample authority contained in the resolution. I think the two distinguished Senators have sufficient knowledge of the law to get the facts.

Mr. FULBRIGHT. Mr. President, will the Senator yield for a question?

Mr. KNOWLAND. I yield to the Senator from Arkansas.

Mr. FULBRIGHT. Assuming that what the Senator from California has alleged is correct, what relevance would it have to the issue presently before the Senate?

Mr. KNOWLAND. I have alleged nothing. I have stated what was brought to the attention of the Senate. I assume the Senator from Arkansas was present at that time. I do not know that it will necessarily affect at all the business before the Senate. Aside from that, and assuming the resolution is adopted, as apparently it will be, I think this is a matter which should be cleared up, and if there are any loopholes or loose practices now existing, the loopholes should be plugged and the practices should be prevented in the future.

Mr. FULBRIGHT. Am I to understand that the majority leader does not allege that this has any relation whatever to the pending business before the Senate?

Mr. KNOWLAND. I do not know, but a disclosure of any such practice would result in what I would call, and what my old New England grandmother used to call, righteous indignation.

Mr. JOHNSON of Texas. Mr. President, will the Senator from California yield?

Mr. KNOWLAND. I yield.

Mr. JOHNSON of Texas. Earlier in the debate the junior Senator from Wisconsin suggested to the majority leader and the minority leader that some action should be taken to determine who is responsible for this specific mail cover, and any others that may exist. After conferring with the minority leader, the majority leader drew up the resolution now before the Senate. I share the feeling expressed by the majority leader, and I hope the Senate can act on the resolution promptly, that it may be adopted, and that the committee may function.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution? The Chair hears none.

There being no objection, the Senate proceeded to consider the resolution.

The VICE PRESIDENT. The question is on agreeing to the resolution.

Mr. LEHMAN. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. LEHMAN. Will the Presiding Officer have the resolution read? I wish to make sure that the resolution is sufficiently broad so that it really takes into consideration not only mail coverage, but telegrams and other forms of communication of all Senators and of all committees, and is not limited to merely 1 committee and 1 Senator.

Mr. KNOWLAND. As I interpret the resolution, although I wish the committee to have whatever broad powers it needs, it relates to mail coverage of all Senators, not merely one Senator. It does not go into telephone records or telegrams, because they do not go through the United States Post Office Department. I feel a specific situation is involved. If the charge is true, an agency of the Federal Government is being used by someone without the authority of a committee, to check on the mail of a United States Senator.

Mr. LEHMAN. Would the Senator be willing to include telephone calls?

Mr. KNOWLAND. If the committee, after it has been selected, feels it wants

to broaden its authority, and if the Senator from Georgia [Mr. GEORGE] and the Senator from Michigan [Mr. FERGUSON] should state tomorrow they feel the resolution should be broadened, I would have no objection to it. However, I do not want the situation to get complicated beyond the facts, which I think can be easily ascertained.

The VICE PRESIDENT. The question is on agreeing to the resolution.

The resolution was agreed to, as follows:

Resolved, That the senior Senator from Michigan, Mr. FERGUSON, and the senior Senator from Georgia, Mr. GEORGE, are hereby constituted a special committee of the Senate to make a full and complete investigation for the purpose of determining all of the facts with respect to (1) whether or not during any period of time there has been maintained a cover on mail to or from the junior Senator from Wisconsin, Mr. MCCARTHY, or any other Senator, or such mail has been otherwise handled in any special manner and without authorization from the junior Senator from Wisconsin, or any other Senator, for the purpose of ascertaining the contents thereof or the identity of persons corresponding with the junior Senator from Wisconsin, or any other Senator, and (2) in the event the committee determines that any such cover has been maintained or such mail has been so handled, the person or persons responsible therefor, the period during which such cover was maintained or such mail was so handled, and all other matters connected with the maintenance of such cover or so handling such mail. The committee shall report to the Senate at the earliest practicable date the results of its investigation and shall cease to exist upon the filing of its report.

SEC. 2. (a) The committee is authorized to sit and act at such places and times during the sessions, recesses, and adjourned periods of the Senate, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems advisable.

(b) The committee is empowered to appoint and fix the compensation of such experts, consultants, and clerical and stenographic assistants as it deems necessary.

(c) The expenses of the committee, which shall not exceed $2,500, shall be paid from the contingent fund of the Senate upon vouchers approved by the committee.

RESOLUTION OF CENSURE

The Senate resumed the consideration of the resolution (S. J. Res. 301) to censure the junior Senator from Wisconsin.

Mr. HICKENLOOPER. Mr. President——

Mr. KNOWLAND. I yield to the Senator from Iowa.

Mr. HICKENLOOPER. It had been my purpose earlier in the day to address the Senate in explanation of my position on the matter pending before the Senate, to give my reasons for voting as I have been doing, and as I shall continue to vote, but circumstances prevented my doing so.

I wish to make it clear that approval or disapproval of the junior Senator from Wisconsin [Mr. MCCARTHY] is not part of my fundamental purpose. I wish to make it very clear that I have the highest respect for the select committee and each member of it. No Member of the Senate has any higher respect for them than I do. I also wish to make it clear that I have the highest affection and respect for the Senator from New Jersey [Mr. HENDRICKSON], a friend and associate of some intimacy.

However, I did wish to make it clear, Mr. President, that I feel that in censuring the junior Senator from Wisconsin for exercising his rights before the Gillette subcommittee we would be making a grievous error. I did wish to say that in censuring the junior Senator from Wisconsin as an individual for words spoken inadvertently, perhaps, and in heat of debate or otherwise, regrettable as they may have been, when at no previous time in its history has the United States Senate seen fit to take such official cognizance of words spoken inadvertently, or in the heat of debate, the Senate would be establishing a most serious precedent, which might rise to plague future Members of this body when their own liberties or freedoms might be at stake. So I thought we should approach the matter with judicious caution, and I attempted to point that out in my prepared remarks.

I neither approve nor disapprove, in my basic premise, the junior Senator from Wisconsin [Mr. MCCARTHY]; and therefore I may say that, in fact, he is an incident, perhaps, in my view.

But, Mr. President, as I say, other duties have prevented me from making these remarks in the length to which I had hoped to make them. Therefore, when I conclude at this time, I shall request unanimous consent that the remarks I wished to make today be printed in the RECORD as a statement by me. But I assure the Senate that they have the same force and effect as if I had made them in due and proper time.

Mr. President, while emotions in the country run high on this particular issue and involving this particular Senator, the junior Senator from Wisconsin, and feelings on both sides of the question are vital and sometimes vicious, the sanctity and security of operation of the Senate of the United States and the great freedom and latitude which have marked its strength during the years are, in my opinion, being endangered by what I hope is not an emotional attitude at this time, although I fear it may be so interpreted. I believe we are about to take a grievous step. The personality of the individual concerned is only an incident to the security and sanctity of the Senate.

As I said a moment ago, I hope we are not attempting to write a lexicon of words from which in the future a Senator must choose as he prepares the statements he will make either to the Senate or to the country.

So, Mr. President, I ask unanimous consent that my statement be printed in the RECORD.

The PRESIDING OFFICER (Mr. PURTELL in the chair). Is there objection?

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR HICKENLOOPER

The issue which has been plaguing the Senate and exciting the country for many months, namely, action on Senate Resolution 301, which moves official censure for the junior Senator from Wisconsin, will soon be decided by the Senate. The charges, countercharges, facts, fiction, and emotions that have marked this strange controversy will be involved in the final votes which are taken, although the final vote may not settle the argument. To believe that any solution of this controversy would completely satisfy everyone would be the height of naivete, indeed, and of course no one believes that such universal satisfaction can result from our actions here. The issues involved seem to me to be fundamental, indeed. They go to the roots of the constitutional rights, and the constitutional safeguards of our free system, in which the freedom of expression and action is, and has been, one of its greatest pillars of strength.

The issues raised under Senate Resolution 301 are crystallized by the report of the select committee, and at least one or perhaps more amendments or substitutes germane to the report of that committee.

No finer, more honorable or more dedicated Members of the United States Senate, individually and collectively, could have been chosen for what was, undoubtedly, a distasteful task, than the members of the select committee. These members need no testimony from me as to their integrity and their dedication to their States and Nation and to the responsibilities of their high offices. They need no character witnesses so far as all who know them are concerned. I only express my great regard and affection for them as a matter of personal conscience. The subcommittee, with the respect and, I believe, sympathy of the Senate generally, undertook its difficult task and labored with diligence and expedition. The fact that some may disagree with the findings of the subcommittee certainly cannot indicate the slightest disrespect for the committee, nor any of its individual members, any more than a vote on this floor, on any substantial issue which is contrary to the recommendation of a standing committee of the Senate, indicates disrespect for the members of that committee. The progress of our system of government has been continuously marked by the fact that reasonable men can sincerely differ, and in such differences eventually arrive at sounder solutions in the public interest.

I have no doubt but that each member of the select committee would far rather have not been chosen, had selfish desires prevailed, and I believe that the thanks of the Senate are due these members for their labors in a difficult assignment.

The report of the select committee has been thoroughly discussed on the floor of the Senate during this debate. I do not want to engage in unnecessary repetition. It is sufficient to note that after consideration of all the charges and allegations before it with respect to the proposed censure of the Senator from Wisconsin, the select committee discarded all except two categories. (1) The committee recommended censure of the Senator from Wisconsin in connection with the circumstances surrounding the investigation by the Subcommittee on Privileges and Elections in the 82d Congress, called the Gillette committee, on charges made by the then Senator from Connecticut, Mr. Benton, and (2) the committee recommended censure in the category of "Incident relating to Ralph W. Zwicker, a general officer of the Army of the United States."

During the debate upon the report of the select committee, a third motion for censure has been filed as an amendment to the committee report, by the junior Senator from Utah, and based upon words used by the junior Senator from Wisconsin since the select committee concluded its deliberations.

I propose to discuss each of these movements for censure briefly.

I have read the report of the select committee. In the first category, the matter of the failure of the Senator from Wisconsin to appear before the Gillette subcommittee of the 82d Congress, the sound reasons for disagreement with the select committee seem to me abundantly clear.

The Gillette subcommittee had before it for consideration certain complaints or charges against the Senator from Wisconsin, filed by the then Senator from Connecticut, Mr. Benton. That subcommittee met and deliberated; it examined so-called evidence and after considerable deliberation it made no findings of fact adverse to the Senator from Wisconsin. During its deliberations it invited the Senator from Wisconsin to appear and testify. He did not appear and testify and based upon the fact that he did not appear and testify, the select committee now recommends that he be censured.

But let's examine the circumstances a little further, and I hope dispassionately and objectively. The subcommittee did not subpena the Senator from Wisconsin, so that, apart from the question of whether or not the subcommittee had the authority to compel his appearance, it did not attempt to exercise the power of subpena. Therefore, even granting for the sake of argument, that it could have compelled his appearance by subpena and his failure to such compulsion might have been contemptuous, that power was never attempted to be used. Therefore, he surely could not be held in contempt of that committee or of the Senate on that ground. The select committee stressed the fact that the Senator from Wisconsin was invited to appear, if he so desired, and did not appear. Such an invitation placed it clearly within the discretion and right of the Senator from Wisconsin to accept or to decline. He exercised that discretion apparently by not appearing before the committee; whether he declined to appear or whether there was difficulty in arranging mutually convenient times for his appearance may be in dispute, but of no great consequence. The point is that he had a discretion and a right which he could exercise, either to appear or not to appear. He did not exercise that discretion to appear before the committee. I can only conclude, therefore, that the select committee reasons that the Senator from Wisconsin should be censured for not exercising his discretion and his rights in the manner in which that committee thought he should have exercised it.

Of even greater significance is the fact that the Gillette committee did not see fit to request censure of the Senator from Wisconsin; nor did it see fit to request an interpretation of its powers from the Senate, itself; nor did it make any findings of fact on the charges.

In addition, the Senate of the 82d Congress did not see fit to make any issue of this incident of the subcommittee's investigation; made no move to continue or pursue the matter beyond the inconclusive report of the subcommittee and the matter supposedly died with the termination of the 82d Congress. The Subcommittee on Privileges and Elections of the 82d Congress had before it, and there was voluminous coverage through the press and radio, of allegations and charges on personal matters involving the Senator from Wisconsin, but it is significant, indeed, to note that the people of Wisconsin, whom he represents, and after extensive publicity in these matters, reelected him to the Senate of the United States to represent the great State of Wisconsin. Can there be the slightest doubt but that the issues involved before the Privileges and Elections Subcommittee of the 82d Congress inhered in the judgment of the people of Wisconsin in that election?

Based upon the premises which I have attempted to briefly outline, it seems incomprehensible to me, from a standpoint of reason and objective approach, that the Senate of the 83d Congress has any justification whatsoever to reach back into a preceding Congress and vote censure for something which the Senate of the 82d Congress failed to take official cognizance of. This is especially true when the very acts upon which censure is now proposed were actions or failure to act which were within the discretion and the rights of the Senator from Wisconsin. In fact, certainly no Senator should be censured for acting within his rights.

The second incident upon which the select committee bases its recommendation of censure of the Senator from Wisconsin, is the so-called Zwicker incident. Laying aside for the moment a great many of the details, I think it is well to examine certain legal phases involved.

In the first place, the Senator from Wisconsin, beyond dispute so far as I know, was acting under the authority rules of the Senate and of the Committee on Government Operations, of which he is chairman. In his subcommittee activities he was acting within the authorization laid down by that committee. He was investigating the matter of subversive infiltration into the Government of the United States and with particular emphasis at the moment on the Armed Forces.

At all times the committee of which he was chairman had the authority to define, curtail, limit or end the investigative activities in this field by either the committee itself, or by any subcommittee of that committee. So far as I know, that committee have never yet circumscribed, curtailed, limited, or ended these investigative activities.

Can anyone argue that the matter of subversive influence in the Government of the United States, or in the Armed Forces or any other branch or department of our Government, is not of vital interest to the Congress and the people, or that acquisition of information with regard to such subversive activities is not within the very deep responsibility of the Senate and of the Congress of the United States?

Can anyone argue that the Senator from Wisconsin, having information that an officer in the Army was a member of a Communist or Communist dominated organization, with strong suspicion that his activities had been in support of conspiratorial activities and that this officer had not only refused to answer questions in connection therewith, but that he had been promoted in spite of this record, and that after demand for a more thorough investigation of his activities had been made by the chairman of the committee looking into such activities, he had been precipitously given an honorable discharge by someone or some authority in the Army, I repeat, can anyone argue that the Senator from Wisconsin should not have vigorously and intensively inquired into the circumstances? I think any Senator in this body, under the same circumstances, would, indeed, have made vigorous inquiry and investigation. The Senator from Wisconsin did make such inquiry, and he called before his subcommittee the commanding officer of Camp Kilmer, an Army separation center, from which Major Peress, the object of this inquiry, was given his honorable discharge on February 2, 1954. Does anyone argue that a general officer of the Army is immune from giving testimony before a congressional committee? Can anybody argue that a logical source of evidence in connection with the Peress case would be the commanding officer of the separation center, where a number of the events involved occurred?

It seems to me that two most fundamental questions in this inquiry would be, (1) Who was responsible for the promotion of Peress? and (2) Who was responsible for his expedited discharge on February 2, 1954, after the matter had been specifically called to the attention of the Department of the Army prior thereto?

In pursuit of these two major questions, the so-called Zwicker incident took place, and under a plea of orders from superior authority, General Zwicker declined to give any kind of a clear answer. During the attempt by the Senator from Wisconsin and counsel for the committee to get the facts in connection with this matter, frustration and irritation undoubtedly entered into the circumstances, and the Senator from Wisconsin eventually directed some bitter words at General Zwicker.

So far as I recall, I have never met General Zwicker. Such information as I have concerning him convinces me that he is an able officer with a splendid war record, and that he is an honorable gentleman. I regret that the Senator from Wisconsin, in what undoubtedly was a period of emotion and frustration so far as the meat of the controversy was concerned, used caustic words toward General Zwicker which questioned his fitness for his job. But, by the same token, I do say that the Congress of the United States is entitled to the answers to these questions which are still unanswered, so far as I know—who promoted Peress, and who is responsible for expediting his honorable discharge?

So far as the controversy between the Senator from Wisconsin and General Zwicker was concerned, there is disputed testimony. There is evidence that General Zwicker had made disparaging remarks about the Senator from Wisconsin. There is evidence that led reasonable people to the belief that General Zwicker was arrogant, almost to the point of defiance, of the Senate committee. The Senator from Wisconsin, as chairman, stated his conclusion that General Zwicker was arrogant; the senior Senator from Colorado, a member of the select committee, has frankly stated, as I understand it, that prior to the hearings of the select committee, he was of the opinion that General Zwicker was an arrogant witness before the committee of the Senator from Wisconsin. The Senator from Colorado has also frankly stated that after hearing General Zwicker before the select committee, he changed his opinion, but I submit that it is not the conduct of General Zwicker before the select committee which is the issue, but the conduct of General Zwicker before the McCarthy committee which is at issue, and conduct at one time may not necessarily be the criterion for judgment of conduct at another time.

Now, so far as the words of condemnation which the Senator from Wisconsin used toward General Zwicker are concerned, and while I personally regret that they were used, and I personally respect General Zwicker, nevertheless, I have heard on repeated occasions during the course of my service in this body language used toward witnesses by members of various committees which were at least as condemnatory of the witness as anything that the Senator from Wisconsin said to General Zwicker. On occasions and on committees of which I have been a member, I have heard members of a committee remonstrate with a colleague in objection to the caustic or condemnatory language which the member was using toward a witness. In some cases, perhaps, the condemnation might, in the judgment of some people, be justified, and in some cases the condemnation might, in the judgment of some people, be wholly unjustified; nevertheless, such condemnation of at least equal vehemence has been repeatedly heard from members conducting investigations in pursuance of the legislative responsibilities of the Senate, and no proposal for censure has ever been offered as a result.

This is not to say that I applaud or approve violence of language, and I make reference to it only because the situation here before us is not unique. The unique situation is that, so far as I know, for the first time in the history of the United States Senate, condemnatory criticism of a witness by a Member of the Senate is being made the basis for

official censure by this body. Is the Senate now to adopt a policy of policing the consciences and vocabulary of its Members by official fiat?

This raises the question, of course, as to whether or not a lexicon of words of propriety is to be adopted by the Senate within the limitation of which each Member must carefully confine himself, else he be officially censured because either through inadvertency or emotion, which is only a part of human reaction, he oversteps the line of official propriety of the moment. It raises the question of whether or not Senators will be circumscribed in their individual right and conscience to criticize people and practices in what they believe to be the public interest. It raises the question of whether or not Senators will be circumscribed and limited in their right and freedom to discuss the conduct and attitude of foreign nations toward this country, else they be censured by those who may disagree with them, or who may consider their language untimely or ill chosen. It raises the question of the meaning of the constitutional protection, which says that for words spoken on the floor of the United States Senate, the Member shall not be questioned in any other place. It raises the whole question of what freedom will remain to a Member of the Senate to express his views on matters which he in conscience believes to be affecting the public interest of his country or of his constituents. It raises the ominous cloud of censure over a body and its membership, which, up until now has retained the strength of freedom in debate and latitude in investigation. It raises the question of whether censure in this case would put the stamp of approval upon defiance of a lawfully constituted committee of this body by servants of or by a department of the Government.

As I stated heretofore, my position in this matter is not from a standpoint of agreement or disagreement with the Senator from Wisconsin. With many things he has done and said I agree; with many things he has done and said I disagree; my position in this matter is taken because I believe there is a fundamental and vital principle affecting the freedom of the Senate of the United States and its Members as the real issue in this controversy, and I propose to protect those freedoms as much as I can.

If the Senator from Wisconsin has transgressed the rules of propriety or of official conduct in the minds of some people, nevertheless, there is voluminous precedent in the past where such transgressions have occurred on the part of others. The very strength of the right of freedom of conduct on the part of the Senate is proven by the ability of our system to absorb all manner of discussion and action, some vehement, some mild, and still maintain that latitude which is necessary in the interest of exhaustive exploration of the rights of the American people.

I often disagree with positions taken by many of my colleagues and, indeed, with statements which they may make from time to time, and without any doubt they disagree with me from time to time on position and statements, but the great principle of freedom of debate and freedom of position and attitude was so clearly enunciated in the statement, "I disapprove of what you say but I will defend to the death your right to say it."

For all of these reasons and because of the sacred principle of liberty and freedom, I cannot support the vote of censure in either of the two categories set out by the select committee.

Turning now to the amendment filed by the junior Senator from Utah [Mr. BENNETT]. He proposes to officially censure the Senator from Wisconsin for critical words spoken about his colleague, the senior Senator from Utah [Mr. WATKINS]. Again I reassert my great respect, friendship, and admiration for the senior Senator from Utah [Mr. WATKINS]. He is a man of highest integrity, courage, and devotion to his responsibilities and his fellowmen. I regret that the Senator from Wisconsin, fighting with his back to the wall, used blunt language directed toward the senior Senator from Utah and the distinguished select committee of which he was chairman.

No doubt the Senator from Wisconsin might be described as having lashed out at the committee, but at the same time the committee, itself, was supporting a motion to condemn the Senator from Wisconsin, and emotions of the moment which were involved might be taken into account in mitigation of intemperate words. Of course, the select committee, and no member of it, has any sympathy whatsoever with, and in fact hate, communism, but at the same time no one can deny that humiliation of the junior Senator from Wisconsin will call for a celebration in every Communist den in the world.

To that extent resolutions of censure of the Senator from Wisconsin will contribute to the objective of the Communists in this country, who have long sought to stifle his activities. Of course, countless people who hate communism disagree with and criticize the Senator from Wisconsin. They are loyal people and in no sense do they aid communistic movements. My own view is that the words of the Senator from Wisconsin might better have been unsaid, and I regret his reference to the Senate session as a "lynch party"; I regret the use of the word "cowardly" with respect to the senior Senator from Utah, who is not cowardly but is possessed of the highest degree of courage. At the same time I regret that bitter words have been spoken on the floor of the Senate from time to time in the past.

In fact I feel certain that the Senator from Wisconsin regrets his choice of language and the bluntness of his words. It seems to me that he expressed this on November 29, when he said, "However, insofar as the words used I am willing to strike out all the words that are considered objectionable."

The choice of words is an art; some people have the ability to inflict grievous wounds with the delicate and needlelike stiletto, the seriousness of which are not realized until some time after the blows have been struck. Others, less artful, do battle with a meat ax, where the damage is immediately more evident and sometimes more repulsive, but in the long run it makes little difference because the injury may be just as serious; either type of attack can wound or kill.

The Senate in rule 19 provides for calling a member to order for words spoken, which are considered by any member to offend the rules of the Senate. These words can be "taken down" and the member cannot proceed in order except by leave of the Senate. This has been a remedy that has worked satisfactorily over the years.

It is significant, however, that, so far as I know, the Senator from Wisconsin has not had rule 19 invoked against him. He was not called to order for any words which he has spoken on the floor of the Senate. Again I say that I do not agree with many of the words which he has spoken; personally I might criticize him for his choice of words on certain occasions, but that is a matter of semantics and personal opinion. Rule 19 still remains as a remedy for any Member of the Senate who desires to exercise it and it has not been exercised in connection with this censure.

I regret exceedingly the bitter words which the Senator from Wisconsin directed against the junior Senator from New Jersey [Mr. HENDRICKSON]. I have known the junior Senator from New Jersey intimately and well. His entire record is one of courage, decency and devotion to duty. He is a man of the highest honor and integrity.

I thoroughly disagree with the Senator from Wisconsin in his reference to the Senator from New Jersey as "a living miracle, a man without brains and without guts," but again without defending, and in fact in criticism of these words, unfortunately chosen and unfortunately spoken, I call attention to the fact that equally grievous things have been said from time to time on the floor of the Senate by Members against other Members, often couched, it is true, in less blunt language but, nevertheless, in connotation fully as violent.

Again I point out that this is the first time in the history of the Senate, so far as I know, that words spoken by a Senator have been the subject of a formalized motion for censure. This seems to me to invite a precedent for the official censureship and control of the choice of words used by a member of the Senate, which may well arise to plague other members in the future and to circumscribe the latitude within which they may discharge their duties as they see them to the people whom they represent.

Therefore, while I assert the freedom to personally disagree with the choice of words, and with their connotation, of the Senator from Wisconsin on some occasions, to regret that he has no doubt offended the sensibilities of many, nevertheless, I do not think official censure is a means of correction, and on the other hand, I think it is a dangerous precedent to freedom of speech, which may, indeed, plague us in the future.

The Senator from Wisconsin has, indeed, been a controversial figure. Millions of people support him with zeal and enthusiasm. Other millions criticize and condemn him. Throughout the history of this country we have had public figures who have aroused violent feelings, pro and con; they have generated controversies which have affected the course of our Nation. It is in the freedom of controversy and in the fires of emotional discussion that we have traditionally found great strength, and we must take great care, indeed, that the emotionally exercised power of a majority shall not translate itself into tyranny over the rights of a minority, whether it be a minority of one or more.

NOMINATION OF DR. WILLARD FRANK LIBBY TO BE A MEMBER OF THE ATOMIC ENERGY COMMISSION

Mr. HICKENLOOPER. Mr. President, as in executive session, there is a matter about which I should like to interrogate both the majority leader and the minority leader. This afternoon the Senate section of the Joint Committee on Atomic Energy unanimously approved and recommended the reporting to the Senate, for confirmation, of the nomination of Dr. Willard Frank Libby, of Illinois, to be a member of the Atomic Energy Commission for the remainder of the term of 5 years expiring June 30, 1956, to which office he was appointed during the last recess of the Senate. I now report the nomination to the Senate.

I do not desire to press for action on the nomination this evening. As I have said, the nomination is unanimously approved by the Senate members, on both sides, of the Joint Committee on Atomic Energy. Action on the nomination is important, because today there are only 2 confirmed Commissioners, out of 5, on the Atomic Energy Commission; and Dr. Libby has been an acting Commissioner since before the Senate reconvened, on a recess, interim appointment.

He is acting as one of the Commissioners, but his nomination has not been confirmed. I think it important that there be at least three confirmed Commissioners.

I do not seek to press for action on the nomination at this time, but I believe it incumbent upon me to press for confirmation as soon as possible of the nomination, which has the unanimous approval of Senators on both sides of the aisle, insofar as the joint committee is concerned. Of course, I shall abide by the desires of the majority leader and the minority leader in this connection.

Mr. JOHNSON of Texas. Mr. President, will the Senator from Iowa yield to me?

Mr. HICKENLOOPER. I yield.

Mr. JOHNSON of Texas. As the Senator from Iowa knows, it is not necessary to press for action in this connection, because there is complete agreement on both sides of the aisle in this instance; and earlier in the day I notified the majority leader that there was no objection from this side of the aisle to reporting this nomination and having it confirmed.

Mr. KNOWLAND. Mr. President, let me say there are several nominations upon which the minority leader and the other members of the minority have shown excellent cooperation. My understanding is that the nominations have been reported from the committee with the support of both the majority and the minority members, and that the nominations have been cleared with both the majority leader and the minority leader.

Mr. HICKENLOOPER. That is correct.

I may state for the RECORD that at this time the Senator from Tennessee [Mr. GORE] is absent in Europe, on official duties. I feel that he would not object, although I cannot speak for him, and he is not voted.

The Senator from Ohio [Mr. BRICKER] is also absent on official duties. He has traveled in the other direction; he is not in Washington. I am not privileged to vote for him, although he was kind enough to give me his general proxy on the committee. But I am not recording him one way or the other. The other Senate Members—of both parties—are unanimous in their approval.

Mr. President, I am not disposed to request immediate action on the nomination; but if that would be satisfactory to the leadership, I would suggest it.

Mr. KNOWLAND. Mr. President, I ask unanimous consent that there be placed on the Executive Calendar both the nomination reported from the Joint Committee on Atomic Energy and also nominations coming from the Armed Services Committee and nominations coming from the Foreign Relations Committee, in regard to which I understand the same situation prevails, namely, that the nominations have been cleared with the minority members and with the minority leader.

The PRESIDING OFFICER. First, the nomination reported from the Joint Committee on Atomic Energy will be received and placed on the Executive Calendar.

NOMINATIONS REPORTED BY THE ARMED SERVICES COMMITTEE

Mr. SALTONSTALL. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably sundry nominations, including the 10,030 nominations received yesterday from the President of the United States, which latter nominations were printed in yesterday's CONGRESSIONAL RECORD. I ask unanimous consent that the 10,030, as printed in yesterday's CONGRESSIONAL RECORD, not be printed on the Executive Calendar, but be placed on the Vice President's desk; and that all other nominations reported from the Armed Services Committee be placed on the Executive Calendar. In that way, all the nominations will be available for consideration, but it will not be necessary to print again the 10,030 nominations.

Mr. KNOWLAND. They are the customary, routine nominations, are they not?

Mr. SALTONSTALL. That is correct.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Massachusetts?

Mr. JOHNSON of Texas. Mr. President, reserving the right to object, let me say that as I understand, the nominations being reported from the Armed Services Committee include the nominations of the Assistant Secretary of Defense and the Assistant Secretary for Air. Both those nominations were reported this morning by the Armed Services Committee, according to my understanding.

Mr. SALTONSTALL. That is correct; they were.

In the case of two other nominations, the nominees were not able to be present this morning in the committee. So the committee has held up those nominations. But all the nominations now reported by the committee are reported unanimously, and with the full approval of the members of both sides.

The PRESIDING OFFICER. Is there objection?

Mr. JOHNSON of Texas. Mr. President, let me ask how many committee members on this side were present.

Mr. SALTONSTALL. Four were present; the Senator from Georgia [Mr. RUSSELL], the Senator from Virginia [Mr. BYRD], the Senator from Missouri [Mr. SYMINGTON], and the Senator from Tennessee [Mr. KEFAUVER].

Mr. JOHNSON of Texas. All the nominations were reported unanimously, were they?

Mr. SALTONSTALL. That is correct.

Mr. JOHNSON of Texas. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Massachusetts? Without objection, it is so ordered.

NOMINATIONS IN THE UNITED STATES PUBLIC HEALTH SERVICE

Mr. KNOWLAND. I understand that in the case of certain nominations which are ready to be reported from the Committee on Labor and Public Welfare, the committee members on both sides are in agreement.

Mr. SMITH of New Jersey. That is correct.

Mr. President, as in executive session, I ask unanimous consent to report from the Committee on Labor and Public Welfare a number of nominations in the Regular Corps of the United States Public Health Service.

The PRESIDING OFFICER. Without objection, the nominations will be received and placed on the Executive Calendar.

NOMINATIONS REPORTED FROM THE FOREIGN RELATIONS COMMITTEE

Mr. SMITH of New Jersey. Mr. President, as in executive session, I ask unanimous consent to report a number of nominations from the Committee on Foreign Relations. The list includes 7 recess appointments of ambassador; appointments and promotions in the Foreign Service; 4 appointments of representatives of the United States to the eighth session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization; and the nomination of Christian A. Herter, Jr., as General Counsel of the Foreign Operations Administration.

The PRESIDING OFFICER. Is there objection? Without objection, the nominations will be received and placed on the Executive Calendar.

Mr. JOHNSON of Texas. Mr. President, I understand that the other nominations to which reference has been made include those reported from the Foreign Relations Committee, those reported from the Armed Services Committee, and those reported from the Committee on Labor and Public Welfare. Were any other nominations reported?

The PRESIDING OFFICER. There was also a nomination from the Joint Committee on Atomic Energy.

Mr. KNOWLAND. There were also nominations from the Judiciary Committee.

Mr. JOHNSON of Texas. From the Judiciary Committee?

Mr. KNOWLAND. Yes; and that is all.

MEMORIALS

The VICE PRESIDENT. The Chair lays before the Senate a letter from Rear Adm. John G. Crommelin, United States Navy (retired), presenting sample copies of memorials disapproving censure of the Senator from Wisconsin [Mr. MCCARTHY], which, with a copy of the petitions enclosed, will be printed in the RECORD and ordered to lie on the table.

The letter and sample copies of memorials are as follows:

TEN MILLION AMERICANS,
New York, December 1, 1954.

The Honorable RICHARD M. NIXON,
President of the United States Senate,
The Honorable WILLIAM H. KNOWLAND,
Majority Leader,
The Honorable LYNDON JOHNSON,
Minority Leader,
The United States Senate,
Washington, D. C.

GENTLEMEN: On behalf of Lt. Gen. George E. Stratemeyer, United States Air Force

(retired), chairman; Adm. William H. Standley, United States Navy (retired); the Honorable Charles Edison; Gen. James A. Van Fleet, United States Army (retired); the Honorable J. Bracken Lee, Governor of Utah; Mrs. Grace L. H. Brosseau; the Honorable John Francis Neylan; Lt. Gen. Pedro A. del Valle, United States Marine Corps (retired); the Honorable John B. Trevor, vice chairman; and "Ten Million Americans," we are presenting herewith to the United States Senate sample copies of a petition which has been widely circulated throughout the Nation.

As the petitions are now in custody of James W. Walsh & Co., certified public accountants of New York City, who are busily engaged in preparing an authentic tally, it is impractical to present the entire lot to you at this time. Only a fraction of the signed petitions has been processed by the auditors, and a very heavy volume of signatures is pouring in via the mails. However, a certified sample of petitions bearing 1,000,816 signatures is available at the Capitol of the United States for inspection by any Members of the Senate desiring to do so.

It is respectfully requested that the contents of this petition be carefully noted by all Members of the United States Senate before casting their votes in the proposed resolution to censure Senator JOSEPH R. MCCARTHY.

The response to this petition throughout the entire United States has been spontaneous, and has developed into a ground swell from the grassroots. Therefore, as a public service, we are hereby submitting this to you for such action as you deem warranted.

Very respectfully,

JOHN G. CROMMELIN,
Rear Admiral, United States Navy (Retired); Chief of Staff, Ten Million Americans.

A PETITION TO THE UNITED STATES SENATE

1. We, the undersigned, being gravely concerned over the serious threat to constitutional government and the great damage to our country that could mistakenly result from your special "censure session," respectfully submit this appeal to reason, commonsense, and justice.

2. We declare that it is your duty to reject the recommendations of the Watkins committee as an affront to the dignity of the Senate, as contrary to its rules, and as a serious threat to the power and prerogatives of the United States Senate. Senator MCCARTHY is really not the issue. He is a symbol of your constitutional right to inquire into the acts of the executive branch, without which you could not get dishonest and disloyal employees out of the Government. A vote to censure one of your own members for doing his sworn duty would establish a dangerous precedent that could only lead to the destruction of constitutional government—the very objective sought by the enemies of the United States.

3. We sincerely pray that your decisions will be based upon honorable considerations, rather than political partisanship or political expediency. It is no longer necessary for you to fear or favor because of an election. The campaign is over.

4. We point out that the Communists and their un-American cohorts, by vicious propaganda, and through willing stooges and blind but innocent dupes, already have victimized certain members of the United States Senate. The insidious influence of these enemies of our way of life was mainly responsible for the creation of the Watkins committee, and for its incredible findings and conclusions. Now, these same subversive elements are again engaged in an all-out campaign of smear, slander, pressure, and political intimidation in a final attempt to destroy Senator JOSEPH R. MCCARTHY and the fundamental principles he symbolizes, and to nullify the great good that he has accomplished.

5. We implore you, in the interest of our country, to resist this pressure, to ignore this influence, and to disregard this Red-inspired propaganda.

6. We urge you to make your decisions on the basis of a careful and conscientious consideration of the law, the precedents, the facts, the circumstances, and above all, the consequences.

7. We urgently call your attention to the fact that a mistaken and unjust decision could be helpful only to the Communists and their Soviet masters and extremely dangerous to the interests, the security, and the safety of the United States of America.

Therefore, we, 10 million Americans, are mobilizing, and we demand justice for a United States Senator.

When 10 million signatures have been secured, the petitions will be delivered to the President of the Senate by a delegation representing each of the 48 States.

This petition, when complete with signatures, should promptly be returned to:

Ten Million Americans Mobilizing for Justice, Roosevelt Hotel, New York.

Lt. Gen. George E. Stratemeyer, United States Air Force (retired), chairman.

Adm. William H. Standley, United States Navy (retired); Hon. Charles Edison; Gen. James A. Van Fleet, United States Army (retired); Mrs. Grace L. H. Brosseau; Hon. John Francis Neylan; Lt. Gen. Pedro A. del Valle, United States Marine Corps (retired); Hon. John B. Trevor, vice chairmen.

Rear Adm. John G. Crommelin, United States Navy (retired), chief of staff; Theodore S. Watson, treasurer.

Ann Constantine Roberts, secretary; Lt. Col. Milton Anthony Stone, United States Air Force (retired), counsel.

Reprinted for the convenience of thousands more who still want to go on record.

Don't delay.

Be 1 in 10 million.

Sign up—back MCCARTHY.

Ten million Americans on the march.

Official petitions may be signed at 321 Maple Street, corner of Essex Street.

If you can't sign a petition, sign this:

"I am in complete accord with the seven statements contained in the petition to the United States Senate as prepared by the Ten Million Americans Committee. I am against the McCarthy censure."

REPORT OF SERGEANT AT ARMS

The VICE PRESIDENT. In addition, the Chair has been handed a report from the Sergeant at Arms, as requested earlier in the day by the Senator from Arkansas [Mr. FULBRIGHT], on a matter involving this petition. The report will also be printed in the RECORD for the information and benefit of the Senate.

The report is as follows:

UNITED STATES SENATE,
OFFICE OF THE SERGEANT AT ARMS,
Washington, D. C., December 1, 1954.

Hon. RICHARD M. NIXON,
Vice President of the United States,
Washington, D. C.

MY DEAR MR. VICE PRESIDENT: Pursuant to the direction of the Senate, I have investigated the matter brought to the attention of the Senate, by the Senator from Arkansas [Mr. FULBRIGHT], and find the facts to be as follows:

An armored truck of the U. S. Trucking Co., of New York City, arrived at the Senate wing of the Capitol sometime between 12:30 and 1 p. m. today, in charge of Mr. James Walsh of the James Walsh Accounting Co., of New York City. Mr. Walsh was accompanied in the armored truck by three armed, uniformed, special officers of the U. S. Trucking Co. I am advised that shortly after the truck arrived, Mr. Walsh directed the special officers to remove from the truck a number of boxes allegedly containing original petitions bearing signatures of persons opposing the resolution to censure Senator MCCARTHY. These boxes were removed from the truck so that news, newsreel and TV photographers who were standing by could take pictures. After the boxes were removed from the truck, the three special officers of the U. S. Trucking Co. drew their pistols while the photographs were being taken. This scene attracted the attention of Lieutenant Gorsky, of the Capitol Police Force, who was directing traffic nearby, and he immediately approached the special officers and ordered them to holster their pistols, which they did.

These boxes were then replaced in the armored truck by the special officers and were subsequently inspected by Senator WELKER, who advised that the boxes contained petitions bearing signatures and addresses which he believed to be authentic. After the inspection by Senator WELKER, the petitions were replaced in the boxes and the armored truck was locked.

One of the special officers then left the truck and entered the Senate wing of the Capitol wearing his holstered pistol. He was followed into the Capitol by Lieutenant Gorsky of the Capitol Police Force and advised that he could not proceed into the Capitol without depositing his pistol with Captain Dowd of the Metropolitan Police who was then stationed at the Senate entrance to the Capitol. The special officer thereupon handed his pistol to Captain Dowd who deposited the weapon in a drawer of the police desk. The special officer advised Lieutenant Gorsky that he desired to make a long-distance telephone call and asked for directions to the telephone booth. As the special officer left the Capitol Building a few minutes later, he was given his pistol. He then entered the truck and the three guards departed with the truck from the Capitol Grounds.

I am further advised that the James Walsh Accounting Co. has been employed to certify the actual number of signatures on the petitions that are being circulated by a committee known as a Committee of Ten Million. The accounting firm is still in the process of counting signatures and would not permit any of the petitions to leave its custody until the count could be completed and certified to. For this reason the U. S. Trucking Co. was employed to take possession of the petitions which had been counted by the accountants and bring them to Washington under guard, and with Mr. James Walsh, head of the accounting firm.

The Secretary of the Senate, Mr. J. Mark Trice, advises that 2 petitions purporting to bear original signatures were filed with him and that he was advised that the other petitions containing signatures in excess of 1 million, could be examined in the armored truck.

Respectfully,

FOREST A. HARNESS,
Sergeant at Arms.

RECESS

Mr. KNOWLAND. Mr. President, as in legislative session, I now move that the Senate stand in recess until tomorrow, at 10 o'clock a. m.

The motion was agreed to; and (at 7 o'clock and 19 minutes p. m.) the Senate took a recess until tomorrow, Thursday, December 2, 1954, at 10 o'clock a. m.